IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF DELAWARE

JASON MCLEAN and)
BRIAN COLEMAN,)
Plaintiffs,)
V.) Civ. No.: 06-617-SLR
COMMUNICATIONS CONSTRUCTION GROUP, LLC.,)))
Defendant.)

PLAINTIFFS' ANSWERING MEMORANDUM IN SUPPORT OF DENYING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

YOUNG, MALMBERG & HOWARD, P.A.

/s/ Ronald G. Poliquin
Ronald G. Poliquin, Esquire
I.D. No. 4447
30 The Green
Dover, DE 19901
(302) 672-5600
Attorney for Plaintiffs

DATED: December 17, 2007

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NATURE AND STAGE OF PROCEEDINGS

Brian Coleman and Jason McLean ("plaintiffs") commenced this Title VII action on October 2, 2006 contending that they were the subject of racial harassment and retaliation. Defendant Communications Construction Group, LLC ("defendant CCG") answered the complaint on October 24, 2006. On November 28, 2007, both plaintiffs and defendant filed motions for summary judgment. This is plaintiffs' answering brief in opposition of defendant's motion for summary judgment.

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- I. Foreman Brad Dodson telling two CCG employees that McLean and Coleman were "two dumb lazy niggers" constitutes harassment under Title VII. (See plaintiff's opening brief in support of motion for summary judgment)
- II. As crew foreman and Brian Coleman and Jason McLean's direct boss, having impact on their promotions and raises, Bradley Dodson was their supervisor as defined under Title VII. (See plaintiff's opening brief in support of motion for summary judgment)
- III. Here, the plaintiffs are African American and thus a member of a protected class. Secondly, plaintiffs suffered an adverse employment action when they were transferred and subsequently terminated. Lastly, similarly situated members of the class were treated more favorably as the harasser- Bradley Dodson stayed with the company at the more desirable work location and continued to work after plaintiffs were laid off.
- IV. Temporal proximity of the events demonstrate that as a result of the incident with Brad Dodson, both plaintiffs were transferred to inferior working conditions in West Chester and then Oaks and then terminated.
- V. Genuine issues of material facts, as to pretextual nature of defendant's proffered legitimate, nondiscriminatory reason

STATEMENT OF FACTS

Plaintiff reiterates the statement of facts submitted in plaintiff's opening brief in support of its motion for partial summary judgment. In addition, plaintiff adds the following facts:

More than just two other employees were aware of Brad Dodson calling the two plaintiffs "two dumb niggers". (Brian Coleman Deposition at 13, 3-11, McLean Ex.1). Bradley Dodson made clear that being a "Dodson" gave him superior standing within the company. (McLean Ex. 1) Brad Dodson had control over plaintiffs' job even helping determining their pay rate. (Jason McLean Deposition at 53, 13-24, McLean Ex.2) Bradley Dodson would often call the plaintiffs "yahoos" while criticizing their work. (Brian Coleman Deposition at 50, 2-23, McLean Ex.3) Brad Dodson constantly reminded McLean and Coleman on a daily basis that he could fire them. (Jason McLean Deposition at 15, 12-24, McLean Ex.4) After the confrontation between the plaintiffs and Dodson, CCG supervisors tried to dissuade the plaintiffs from pursuing the matter with Human Resources. (Brian Coleman Deposition at 18, 16-19, McLean Ex.5) Dodson was about 150 feet away when plaintiffs confronted him. (Jason McLean Deposition at 17, 10-11, McLean Ex.6) McLean and Coleman never left their job site to confront Brad Dodson. (Jason McLean Deposition at 43, 11-14, McLean Ex.7)

The incident included more than just a verbal altercation. Upon confronting Brad Dodson about the incident, Dodson immediately starts striking Coleman in the chest with his finger. (Brian Coleman Deposition at 23, 1-6, McLean Ex.8)

After reporting the incident, Coleman left for a pre-planned vacation. Immediately after the incident and during Coleman's vacation, McLean was relegated to sweeping

sidewalks and cleaning dirt out of people's yards. (Jason McLean Deposition at 24, 1-7, McLean Ex.9) The position paid McLean half as much as his former position. (Jason McLean Deposition at 54, 1-9, McLean Ex.10) Upon returning to the company, he was transferred to another worksite in Angola, Delaware. (Brian Coleman Deposition at 28, 1-7, McLean Ex.11) Coleman and McLean worked there for three days. (McLean Ex.12). Then Coleman and McLean were transferred to West Chester and then Oaks, Pennsylvania. (McLean Ex. 12). The rate schedule was different in New Castle then in Angola and West Chester. (Jason McLean Deposition at 30, 15-24, McLean Ex.13)

Originally, Coleman and McLean were allowed a truck to travel to their worksite (Brian Coleman Deposition at 29, 1-24, McLean Ex.14) However; CCG's CEO Jonathan Gates quickly took the truck away. (Brian Coleman Deposition at 30, 7-14, McLean Ex.15) All other foremen had company trucks. (Jason McLean Deposition at 34, 13-17, McLean Ex.16)

The work in West Chester was inferior to the New Castle worksite. (Brian Coleman Deposition at 31, 10-15, McLean Ex.17) The transfer resulted in a substantial loss of salary. (Jason McLean Deposition at 36, 1-24, McLean Ex.18) Plaintiffs were making less money for the same work in West Chester. (Jason McLean Deposition at 63, 17-24, McLean Ex.19) The transfer also resulted in longer hours, higher costs for room and board, and higher food costs. (Jason McLean Deposition at 37, 1-17, McLean Ex.20) Plaintiffs worked four-day weeks in New Castle and six day weeks in West Chester. (Jason McLean Deposition at 64, 13-24, McLean Ex.21) McLean requested an explanation from HR concerning his transfer, but was never given one. (Jason McLean Deposition at 58, 3-10, McLean Ex.22) The pay was inferior at the West Chester

worksite. (Brian Coleman Deposition at 32, 3-17, McLean Ex.23) The travel time was much longer for both McLean and Coleman at West Chester (Brian Coleman Deposition at 33, 16-24, McLean Ex.24) The pay was similar at the Oak worksite. (Brian Coleman Deposition at 35, 19-21, McLean Ex.25)

Despite five years of employment, Gates made vague threats as to Coleman's future with the company. (Brian Coleman Deposition at 37, 16-24, McLean Ex.26) Prior to this incident, Coleman had no negative reviews in his file with CCG. (Brian Coleman Deposition at 49, 3-21, McLean Ex.27) McLean started working with CCG in January 2005. (Jason McLean Deposition at 7, 15-19 McLean Ex.28)

There was still work at CCG after plaintiffs were laid off. (Jason McLean Deposition at 38, 22-23, McLean Ex.29) The incident was widely known in the company. (Jason McLean Deposition at 47, 2-5, McLean Ex.30) Bradley Dodson continued to work after Coleman and McLean were laid off. (Brian Coleman Deposition at 51, 1-8, McLean Ex.31)

ARGUMENT

I. THE COURT SHOULD NOT GRANT CCG SUMMARY JUDGMENT WITH RESPECT TO PLAINTIFF'S RACIAL DISCRIMINATION, RACIAL HARASSMENT, AND RETALIATION CLAIM

With respect to summary judgment in employment discrimination cases, the court's role is to determine whether, upon reviewing all the facts and inferences to be drawn there from in a light most favorable to plaintiff, whether there exists sufficient evidence to create a genuine issue of material fact as to whether an employer intentionally discriminated against the plaintiff. Fed.Rules Civ.Proc.Rule 56.

Under the *McDonnell Douglas* burden-shifting framework, employees establish prima facie case of employment discrimination based on race by showing that (1) they are members of a protected class, (2) they are qualified for position, (3) they suffered an adverse employment action, and (4) the action occurred under circumstances that give rise to an inference of unlawful discrimination, such as might occur when a similarly situated person not of the protected class is treated differently. Civil Rights Act of 1964, § 703(a)(1), 42 U.S.C.A. § 2000e-2(a)(1). Here, the plaintiffs are African American and thus a member of a protected class. Secondly, plaintiffs suffered an adverse employment action when they were transferred and subsequently terminated. Lastly, similarly situated members of the class were treated more favorably as the harasser- Bradley Dodson stayed with the company at the more desirable work location and continued to work after plaintiffs were laid off.

A. The discrimination against Plaintiffs involved both verbal and physical harassment

Here, plaintiffs were called "two dumb lazy niggers" by a supervisor who had control over plaintiffs' job even helping determine their pay rate. (Jason McLean

Deposition at 53, 13-24, McLean Ex.2). Bradley Dodson often called the plaintiffs "yahoos" while criticizing their work. (Brian Coleman Deposition at 50, 2-23, McLean Ex.3) Brad Dodson constantly reminded McLean and Coleman on a daily basis that he could fire them. (Jason McLean Deposition at 15, 12-24, McLean Ex.4) Not only did Brad Dodson call the plaintiffs "two dumb lazy niggers", he also physically poked his finger in plaintiff Coleman's chest several times after confronted with the question as to whether he made the statement. The incident was widely known to other employees in the company. (Jason McLean Deposition at 47, 2-5, McLean Ex.30)

B. Plaintiffs were transferred to worse positions and eventually laid off after reporting the incident

The Court has previously decided that genuine issues of material fact, as to whether relocation of four employees to single office at technical and community college constituted an "adverse employment action," precluded summary judgment for the college on employees' claim of race-based disparate treatment. Cole v. Delaware

Technical and Community College 459 F.Supp.2d 296 D.Del., 2006. Civil Rights Act of 1964, § 703(a)(1), 42 U.S.C.A. § 2000e-2(a)(1).

Substantial interference with work facilities that are important to the performance of an employee's job can constitute a material change in the terms and conditions of employment and thereby qualify as an "adverse employment action." Id.

As a result of the incident with Brad Dodson, both plaintiffs were transferred to inferior working conditions in West Chester and then Oaks and subsequently terminated. McLean was relegated to sweeping sidewalks and cleaning dirt out of people's yards. (Jason McLean Deposition at 24, 1-7, McLean Ex.9) The position paid McLean half as much as his former position. (Jason McLean Deposition at 54, 1-9, McLean Ex.10)

The work in West Chester was inferior to the New Castle worksite. (Brian Coleman Deposition at 31, 10-15, McLean Ex.17) The transfer resulted in a substantial loss of salary. (Jason McLean Deposition at 36, 1-24, McLean Ex.18) Plaintiffs were making less money for the same work in West Chester. (Jason McLean Deposition at 63, 17-24, McLean Ex.19) The transfer also resulted in longer hours, higher costs for room and board, and higher food costs. (Jason McLean Deposition at 37, 1-17, McLean Ex.20) Plaintiffs worked four-day weeks in New Castle and six day weeks in West Chester. (Jason McLean Deposition at 64, 13-24, McLean Ex.21) McLean requested an explanation from HR concerning his transfer, but was never given one. (Jason McLean Deposition at 58, 3-10, McLean Ex.22) The pay was inferior at the West Chester worksite. (Brian Coleman Deposition at 32, 3-17, McLean Ex.23) The travel time was much longer for both McLean and Coleman to West Chester (Brian Coleman Deposition at 33, 16-24, McLean Ex.24) The inferior pay was similar at the Oak worksite. (Brian Coleman Deposition at 35, 19-21, McLean Ex.25)

C. Defendant's actions demonstrate that their reasons for Plaintiffs' transfer and termination were pretextual

In <u>Cole</u>, the Court decided that genuine issues of material facts, as to pretextual nature of technical and community college's proffered legitimate, nondiscriminatory reason for office relocations of African-American employees of educational opportunity outreach program, that it was part of larger plan to locate members of each of three such federally-funded programs in single designated area, precluded summary judgment for college on employees' claim of race-based disparate treatment under Title VII. Civil Rights Act of 1964, § 703(a)(1), <u>42 U.S.C.A.</u> § 2000e-2(a)(1).

Here, CCG asserts that plaintiffs were transferred and laid off as part of a larger business plan. That type of assertion without substantive evidence is a disputed material fact in the case. See Cole.

Despite five years with the company, plaintiff Coleman (after the incident with Dodson) received veiled threats that his future with the company was in question. (Brian Coleman Deposition at 37, 16-24, McLean Ex.26) Prior to this incident, Coleman had no negative reviews in his file with CCG. (Brian Coleman Deposition at 49, 3-21, McLean Ex.27) McLean started working with CCG in January 2005. (Jason McLean Deposition at 7, 15-19 McLean Ex.28) In addition, after the confrontation, CCG supervisors tried to dissuade the plaintiffs from pursuing the matter with Human Resources. (Brian Coleman Deposition at 18, 16-19, McLean Ex.5)

Originally, Coleman and McLean were allowed a truck to travel to their worksite (Brian Coleman Deposition at 29, 1-24, McLean Ex.14) However; CCG's CEO Jonathan Gates quickly took the truck away. (Brian Coleman Deposition at 30, 7-14, McLean Ex.15) All other foremen had company trucks. (Jason McLean Deposition at 34, 13-17, McLean Ex.16)

There was still work at CCG after plaintiffs were laid off. (Jason McLean Deposition at 38, 22-23, McLean Ex.29) The incident was widely known in the company. (Jason McLean Deposition at 47, 2-5, McLean Ex.30) Bradley Dodson continued to work after Coleman and McLean were laid off. (Brian Coleman Deposition at 51, 1-8, McLean Ex.31). In addition, Bradley Dodson's brother, David Dodson participated in the decision to transfer and subsequent terminate the plaintiffs. (Lisa Clements Deposition at 42, 4-10, McLean Ex.39 in plaintiffs' opening brief in support for partial summary judgment).

CONCLUSION

The Court should deny defendant's motion for summary judgment as issues of material fact are in dispute that need to be decided at trial.

Respectfully submitted,

/s/ Ronald G. Poliquin
Ronald G. Poliquin, Esquire
I.D. No. 4447
30 The Green
Dover, DE 19901
302-672-5600
Attorney for Plaintiffs

Dated: December 17, 2007

McLean and Coleman v. Communications Construction Group, LLC Brian Coleman

10 12 1 between Mr. Dodson when he allegedly made this statement point in time that Mr. Gates made you a foreman? 1 2 to Mr. Koch? A. For the Verizon, yes. After that. 2 3 A. No. I wasn't. 3 O. We've said that May 31st is the day, and I use 4 Q. Do you know when that happened? that date because it's the date that is in the Complaint 4 A. It was a Friday before that weekend, or -- we 5 5 that was filed in this action. Did you review that 6 had a weekend off or something, a holiday or something. 6 Complaint prior to its filing? 7 A couple days that went past, and that Monday, I think, 7 A. Yes. 8 they told us. O. And did you verify the facts in that Complaint? 8 9 Q. What did you say to Mr. Koch after he gave you 9 A. Somewhat. 10 this alleged statement? O. What do you mean by "somewhat"? 10 A. Well, you keep saying Mr. Koch. It wasn't just A. I mean some of the stuff is wrong that's in 11 11 12 Mr. Koch who was telling me. 12 there. Q. What do you think is wrong in there? 13 Q. Okay. Who else -- where did that conversation 13 14 A. The stuff that CCG told, it didn't happen that 14 take place? 15 A. Right in the neighborhood where we were working 15 way. Some of it. 16 16 O. Now, I'm talking about what's in your 17 O. Okay. And was Mr. Koch working with you? 17 Complaint. 18 A. No. Mr. Koch wasn't working with us. 18 A. Oh, my Complaint? 19 O. To begin this litigation. 19 Q. Okay. A. My Complaint is pretty accurate. I mean what 20 A. We all worked -- there was a street here, a 20 21 street here. Everybody -- the neighborhood was broken up 21 wasn't accurate, I pointed out to my lawyer. 22 into sections. This crew had this section, this crew had O. So you don't have any reason to challenge this 22 23 this section. We had to go around the corner on the 23 date that's been put out of May 31st? 24 backhoe to get stone. We were getting boxes. And we 24 A. Nope. 13 11 Q. 2005. Now, you had worked for CCG for a number 1. always stopped and just shoot the shit with the guys, you 1 2 know what I mean? We all worked together. Same company. 2 of years prior to May 31st, 2005? 3 A. Yes. 3 So when we stopped, he told us what was 4 Q. Were there any events that occurred prior to 4 said. Davey Miller told us what was said. There was a couple of them told us what was said. So when he told us 5 that date, in your employment --6 what was said, I mean I go -- I bust my butt for this 6 A. With me? guy, Dave Dodson -- I mean, yeah, Brad Dodson. If I 7 Q. With you. A. No, sir. 8 don't dig my holes, he can't use that machine to shoot 8 9 that footage there where he is taking the biggest chunk Q. Didn't have any problems ---9 10 of the money. So I went around there, and I confronted 10 A. No problem at all. 11 him. I asked him --11 Q. -- with the company or working? Okay. In your 12 own words, if you would, tell me what happened on May Q. Okay. 12 13 31st, what the conversation was with Mr. Koch. A. -- why would you say something like that, you 13 A. Well, it was me and Jason McLean, saw Mr. Koch, 14 know what I mean? 14 15 Q. And what was his response? I guess, and asked him if they were making any money. It 15 A. He got in my face. "I'm a Dodson." I said I 16 16 was like -- some weeks you do good and some weeks you do bad. This was one of those bad spells. And he had told 17 don't care who you are. I'm a man just like you are. 17 18 From there, that's when the confrontation started. us what Mr. Dodson said, about "We weren't making any 18

4 (Pages 10 to 13)

money, but at least you don't have to work with two dumb

Q. And when you said Mr. Dodson, you're referring

A. Brad Dodson. He was my foreman.

Q. You weren't present for this conversation

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niggers."

to Brad Dodson?

Q. Okay. You and Jason were going to get stone,

you said, when this conversation took place.

A. When we were going to get stone?

Q. Who was present at that point in time?

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23.

24

Q. Yeah.

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1	A. A written statement? No.	1	with the Equal Employment Opportunity Commission?
2	Q. Have you gotten a written statement from anyone	2	A. Yes.
3	else who was a witness to this matter?	3	Q. And do you recall that they ended up dismissing
4	A. No. Nothing written.	4	the charge?
5	Q. Other than your attorney, Mr. Brad Dodson's	5	MR. POLIQUIN: Objection. You can
6	cousin, and Mr. Coleman, have you spoken with anyone else	6	answer. You can answer the question.
7	about these events since your termination from CCG?	7	A. I don't think they dismissed it. I think they
8	A. Yes.	8	didn't find any outcome, and they ended up giving us the
9	Q. Who else have you spoken to?	9	right to sue.
10	A. Lots of people.	10	Q. Let me give you a document that's marked
11	Q. Okay. Anyone with any direct knowledge of	11	Exhibit 6, entitled dismissal and notice of rights. Do
12	these events?	12	you recall receiving that document from them?
13	A. No.	13	A. Yes.
14	Q. Did you keep any notes during the course of	14	Q. And that's dated June 29th?
15	your employment with CCG?	15	A. Uh-huh.
16	A. Other than stuff pertaining to work. Did I	16	Q. Okay. Do you know when you received that?
17	keep any to this day? No.	17	A. Probably sometime thereafter.
18	Q. And what do you keep pertaining to work?	18	Q. Any idea when?
19	A. Maybe stuff that I might need for the	19	A. Maybe a week.
20	day-to-day work, you know, like where I'm going to be	20	Q. Okay.
21	working, the map grid, length of the job.	21	MR. HUGGETT: That's all that I have.
22	Q. Are those documents that you would still have	22	MR. POLIQUIN: Just a few questions.
23	today?	23	If you don't mind.
24	A. No.	24	CROSS-EXAMINATION
		}	
	51		53
1		1	•
1	Q. When would you have gotten rid of those	1 2	BY MR. POLIQUIN:
2	Q. When would you have gotten rid of those documents?	2	BY MR. POLIQUIN: Q. You had stated that Brad Dodson was your
2 3	Q. When would you have gotten rid of those documents?A. Probably until they got thrown out of my truck.	2 3	BY MR. POLIQUIN: Q. You had stated that Brad Dodson was your supervisor as of May 31, 2005?
2 3 4	Q. When would you have gotten rid of those documents?A. Probably until they got thrown out of my truck.Q. Do you keep a journal or a diary?	2 3 4	BY MR. POLIQUIN: Q. You had stated that Brad Dodson was your supervisor as of May 31, 2005? A. Uh-huh.
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2 3 4 5 6	 Q. When would you have gotten rid of those documents? A. Probably until they got thrown out of my truck. Q. Do you keep a journal or a diary? A. No. Q. Did you file an income tax return in 2005? 	2 3 4 5 6	BY MR. POLIQUIN: Q. You had stated that Brad Dodson was your supervisor as of May 31, 2005? A. Uh-huh. Q. What was Brad Dodson's position on May 31, 2005?
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2 3 4 5 6 7 8 9 10 11 12 13	Q. When would you have gotten rid of those documents? A. Probably until they got thrown out of my truck. Q. Do you keep a journal or a diary? A. No. Q. Did you file an income tax return in 2005? A. Yeah. Q. In 2006? A. Yeah. Q. And you testified that one was filed on behalf of McLean Enterprises? A. Yeah. MR. HUGGETT: I would like to reiterate the document request for all damages and	2 3 4 5 6 7 8 9 10 11 12 13	BY MR. POLIQUIN: Q. You had stated that Brad Dodson was your supervisor as of May 31, 2005? A. Uh-huh. Q. What was Brad Dodson's position on May 31, 2005? A. It was foreman, boss, manager. Whatever you would like to call it. Q. And what was your interaction with Brad Dodson, as of May 31, 2005? Excuse me. When you say he was your boss, can you describe your working relationship with Brad Dodson? A. Pretty much I take all my orders from him, tell us what to do, where to go, when to do it. He decides my
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1 2	50		52
1	A. No.	1	called human resources after the confrontation between
	Q. Prior to this incident, did Bradley Dodson ever	2	you and Mr. Dodson, correct?
3	refer to you or Jason McLean by a certain by any other	3	A. Correct.
4	names?	4	Q. Did you ever complain to anyone that Brad
5	A. Yeah. He used to call us yahoos.	5	Dodson referred to you as a yahoo?
6	Q. And did he call anyone else yayhoos, or yahoos?	6.	A. I didn't pay it no mind, until after that other
7	A. I never heard him say that to anyone else.	7	comment was said. But I heard him say that directly to
8	Q. And in what context did he tell you yayhoos or	8	me.
9	yahoos?	9	MR. HUGGETT: That's all.
10	A. "You yayhoos, come on. You can't get that	10	MR. POLIQUIN: I have nothing else.
11	right." I never heard the word or expression before. I	11	you can either waive signature or you can review it
12	didn't know what it meant.	12	before you sign it. What would you want to do?
13	Q. Who else was on your team at that time?	13	THE WITNESS: I want to review it.
14	A. Bradley and Frank.	14	(Deposition concluded at 2:22 p.m.)
15	Q. Did he ever refer to Frank as a yayhoo?	15	(popular tour-vapar as minn burn)
16	A. Huh-uh.	16	
17	Q. You had worked for this company for four or	17	·
18	five years?	18	
19	A. Yes, sir.	19	·
20	Q. And were you ever laid off during that period	20	
21	of time?	21	
22	A. No, sir. Not that I remember.	22	·
23	Q. And do you know what discipline Bradley Dodson	23	
24	received has a result of the Lisa Clemens investigation?	24	
	51		53
_	•	1	INDEX
1	A. None. A warning like we did. Which I don't	2	DEPONENT: BRIAN COLEMAN PAGE
2	see how Q. And do you know if Bradley Dodson continued to	3	Examination by Mr. Huggett 2
3	work after you were laid off?		Examination by Mr. Poliquin 42
5	A. Yes, he did.	4	Examination by Mr. Huggett 51
6	Q. Now, whatever happened to Bradley Dodson's	5	EXHIBITS
7	criminal charges that were filed against him?	6	DEFENDANT'S DEPOSITION EXHIBITS MARKED
1 ′	A. He pled out. Probation before judgment.	7	1. Complaint and Warrant 16
ا ه	-	8	** ***********************************
8	MR POLICIEN I have no further	0	Employee Policy Manual 22
9	MR. POLIQUIN: I have no further	9	3. Employee vacation form, 5/10/05 25
9	questions.	9 10	3. Employee vacation form, 5/10/054. Employee warning report, 6/20/0636
9 10 11	questions. REDIRECT EXAMINATION	9 10 11	 3. Employee vacation form, 5/10/05 25 4. Employee warning report, 6/20/06 36 ERRATA SHEET/DEPONENT'S SIGNATURE 54
9 10 11 12	questions. REDIRECT EXAMINATION BY MR. HUGGETT:	9 10 11 12	3. Employee vacation form, 5/10/054. Employee warning report, 6/20/0636
9 10 11 12 13	questions. REDIRECT EXAMINATION BY MR. HUGGETT: Q. Brad Dodson's title was foreman?	9 10 11 12 13	 3. Employee vacation form, 5/10/05 25 4. Employee warning report, 6/20/06 36 ERRATA SHEET/DEPONENT'S SIGNATURE 54
9 10 11 12 13 14	questions. REDIRECT EXAMINATION BY MR. HUGGETT: Q. Brad Dodson's title was foreman? A. Yes.	9 10 11 12 13 14	 3. Employee vacation form, 5/10/05 25 4. Employee warning report, 6/20/06 36 ERRATA SHEET/DEPONENT'S SIGNATURE 54
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9 10 11 12 13 14 15 16 17 18 19 20	questions. REDIRECT EXAMINATION BY MR. HUGGETT: Q. Brad Dodson's title was foreman? A. Yes. Q. Okay. And in Exhibit 2, the policies you looked at, nowhere in there did it use the word foreman in terms of making a complaint, did it? A. I correct you, foreman or supervisor. Foreman/supervisor. He had the power to fire me. He told me what I did, he had control over me, so yeah.	9 10 11 12 13 14 15 16 17 18 19 20	 3. Employee vacation form, 5/10/05 25 4. Employee warning report, 6/20/06 36 ERRATA SHEET/DEPONENT'S SIGNATURE 54
9 10 11 12 13 14 15 16 17 18 19 20 21	questions. REDIRECT EXAMINATION BY MR. HUGGETT: Q. Brad Dodson's title was foreman? A. Yes. Q. Okay. And in Exhibit 2, the policies you looked at, nowhere in there did it use the word foreman in terms of making a complaint, did it? A. I correct you, foreman or supervisor. Foreman/supervisor. He had the power to fire me. He told me what I did, he had control over me, so yeah. Foreman, supervisor. He was my supervisor. You try and	9 10 11 12 13 14 15 16 17 18 19 20 21	 3. Employee vacation form, 5/10/05 25 4. Employee warning report, 6/20/06 36 ERRATA SHEET/DEPONENT'S SIGNATURE 54
9 10 11 12 13 14 15 16 17 18 19 20 21 22	questions. REDIRECT EXAMINATION BY MR. HUGGETT: Q. Brad Dodson's title was foreman? A. Yes. Q. Okay. And in Exhibit 2, the policies you looked at, nowhere in there did it use the word foreman in terms of making a complaint, did it? A. I correct you, foreman or supervisor. Foreman/supervisor. He had the power to fire me. He told me what I did, he had control over me, so yeah. Foreman, supervisor. He was my supervisor. You try and reword it, but I mean that's that's what he was, my	9 10 11 12 13 14 15 16 17 18 19 20	 3. Employee vacation form, 5/10/05 25 4. Employee warning report, 6/20/06 36 ERRATA SHEET/DEPONENT'S SIGNATURE 54
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Jason McLean 16 14 Q. Where were you at the time that you had this 1 A. No. 2 conversation with Mr. Koch? Q. When you were hired, you received the CCG 2 3 A. On the work site. 3 employee manual, correct? O. How far away from where Mr. Dodson was working? 4 A. Yes. 5 A. Maybe 150 feet. O. Did you read that? 5 6 (McLean Exhibit 2 marked) 6 A. Partially. 7 BY MR. HUGGETT: Q. Okay. Do you recall signing a statement that 7 8 Q. I've marked as Exhibit 2 what is a map of the you had read and understood the policies? 8 neighborhood where the employees were working, previously 9 9 A. Yes. 10 produced. Do you recognize that as a map of the Q. Did you understand that that manual had a 10 neighborhood where you were working on May 31, 2005? 11 harassment policy in it? 11 12 A. It could possibly be one. I've seen thousands 12 A. If I signed, yes. 13 of these. 13 (McLean Exhibit 1 marked) MR. HUGGETT: I introduce as Exhibit 1 14 Q. Okay. On the second page of that document, 14 there is a handwritten notation in the top left corner the employee policy manual that has been previously 15 15 that says "Brian and Jason." Do you see that? produced here, and the signed acknowledgment of 16 16 17 A. Right here? 17 Mr. McLean. O. Yes. 18 18 BY MR. HUGGETT: 19 A. Okay. O. On this document that we've marked as Exhibit 19 20 O. Is that the location where you were working on 20 1, is that your signature? 21 May 31? 21 A. Yes, sir. 22 A. Yeah. That's it. That's it. Q. On January 10, 2005? 22 Q. And that's on Cunane Court? 23 23 A. Yes, sir. Q. When you were hired by CCG? 24 A. Uh-huh. 24 17 15 Q. And on the first page of that document, there 1 1 .A. Yes, sir. Q. Okay. And page 8 of that document has a is a notation on the bottom left side that says Brad and 2 2 3 Frank. Do you see that? 3 harassment provision, does it not? A. Yes. 4 4 A. Yes, sir. 5 Q. After Mr. Koch told you about this alleged 5 O. And is that where Mr. Dodson was working on May 6 31? comment by Mr. Dodson, why didn't you call Lisa Clemens 6 7 A. Possibly, yeah. 7 at that point in time? 8 O. And that's around the corner from Cunane Street 8 A. I didn't see it fit. .9 on Entre Lane, correct? 9 Q. And why is that? 10 A. It was right across the property. Yeah. About 10 A. Because I felt as though I should have 11 150 feet away. 11 contacted my supervisor. 12 Q. So you left where you were and went over to O. And who was your supervisor at that point in 12 where Mr. Dodson was working? 13 13 time? 14 A. Yes. 14 A. Brad Dodson. Q. Did you talk to Mr. Dodson or to the other 15 15 O. Mr. Dodson was a foreman, correct? gentleman that was there, Frank? What's Frank's last 16 16 A. Yes. Q. He did not have the power to hire and fire you, 17 name? 17 A. Neither, I didn't have a conversation with did he? 18 18 19 either. 19 A. He could fire me, yes. 20 Q. Okay. Did Mr. Coleman have a conversation with Q. How do you know that he could fire you? 20 A. He made it very clear, every day. 21 either? 21 22 A. Yes. O. Did anyone else tell you that he had the 22 23 Q. Who did Mr. Coleman speak to first? 23 authority to fire you?

24

A. He spoke to Brad.

A. No.

24

Brian Coleman

18 20 1 nigger." Does this in any way tell the police that you 1 wasn't hearsay. 2 didn't actually hear him say that to you? 2 O. If you look at the fourth page of this document, the handwritten portion. That's the fourth 3 A. I believe it's in the police report, that they 3 4 know what happened, that it was told to me. 4 page. 5 O. Okay. This document that you signed --A. Okay. 5 A. Well, that's wrong, then, huh? That's wrong. O. The middle entry, there is a narrative 6 6 7 7 paragraph. Is that your handwriting? Okay, 8 Q. You said Dave Dodson didn't want to get 8 A. Yup. Yes. That's right. Q. Okay. And that's exactly what's typed on this 9 involved. What did he say? 9 A. He didn't say too much of anything, that I 10 first page, isn't it? 10 11 remember. A. Well, it's right, then. That's correct. 11 12 O. Okav. O. You just said it was wrong. 12 A. Well, I misunderstood what I was reading there. 13 A. He was standing off like to the side. Fender 13 That's exactly how it happened. Dodson came out there, 14 was the one doing all the talking. 14 Q. Okay. When did Mr. Fender get there? 15 his brother came. He didn't want to get involved with 15 it. That's when Mike Fender arrived. Mike Fender tried A. Right after the whole altercation happened. 16 16 17 Q. Who was Mr. Fender, to your knowledge? to tell us don't call human resources, don't call the 17 police. Let's shake hands and be men about this and go A. Mike Fender. He was like the supervisor, I 18 18 19 guess. 19 back to work. 20 Q. How long had he been on the job? 20 Q. Okay. This statement says, Bradley Dodson 21 A. He just started working for the company. 21 jabbed me with a finger in the chest. Correct? 22 Q. And if you remember, what happened when he 22 A. Repeatedly. 23 Q. It doesn't say that. showed up? 23 24 A. He was just trying to resolve the problem, I 24 A. Well, okay. 21 19 1 guess. He was trying to sweep it under the rug. He Q. "I asked him to stop. He kept going." 1 2 wasn't -- I mean I just got assaulted, what are you going 2 A. Correct. Q. "Then he pushed me." 3 to do? If I would have assaulted somebody, they would 3 4 have fired me probably. He wasn't trying to do anything 4 5 to him. Just trying to tell us shake hands and going Q. "Big boss come on the scene." Who is that? 5 back to work. No, I'm not shaking hands and going back A. That would be his brother, Dave Dodson. 6 6 7 to work. That's why I called the police. Jason called 7 Q. And how did he come to be there? A. I think Brad must have called him, or Frank 8 human resources. Mrs. Clemens. 8 9 Q. Had you had any dealings with Ms. Clemens 9 called him. 10 before that? Q. Who is Frank? 10 A. Frank was the guy that worked with Brad 11 A. No. 11 after -- he was working with Brad before me and Jason Q. When you were originally talking to this group 12 12 that included Bobby Koch, and he relayed this statement 13 13 started working with him. I don't know his last name. I 14 to you, where was that in relation to where Mr. Dodson 14 have no idea. 15

Q. He was a member of your crew? 15

16 A. Yeah.

Q. And was Mr. Dodson there when you called the 17

18 police or did you call the police before? Mr. Dave

19

20 A. I believe it was after. Because they

weren't -- the only thing is they were telling us, "Go 21

back to work, go back to work. We'll handle it. Go back 22

23 to work."

24

Q. Okay. This then says, "He called me dumb

- was working?
- Maybe right around the corner. 16
 - Q. It wasn't right in the same spot? You had to go to where Mr. Dodson --
 - A. We had to pass him to go to where we had to go to get to Mr. Dodson.
 - Q. When you heard the statement, why didn't you call human resources at that time?
- A. I don't know. I haven't the foggiest idea. 23
 - O. You knew that the company had a harassment

17

18 19

20

21

22

24

McLean and Coleman v. Communications Construction Group, LLC Jason McLean

1	14		16
1	A. No.	1	Q. Where were you at the time that you had this
2	Q. When you were hired, you received the CCG	2	conversation with Mr. Koch?
3	employee manual, correct?	3	A. On the work site.
4	A. Yes.	4	Q. How far away from where Mr. Dodson was working?
5	Q. Did you read that?	5	A. Maybe 150 feet.
6	A. Partially.	6	(McLean Exhibit 2 marked)
7	Q. Okay. Do you recall signing a statement that	7	BY MR. HUGGETT:
8	you had read and understood the policies?	8	Q. I've marked as Exhibit 2 what is a map of the
9	A. Yes.	9	neighborhood where the employees were working, previously
	Q. Did you understand that that manual had a	10	produced. Do you recognize that as a map of the
10		11	neighborhood where you were working on May 31, 2005?
11 12	harassment policy in it?	12	A. It could possibly be one. I've seen thousands
	A. If I signed, yes.	13	of these.
13	(McLean Exhibit 1 marked) MR. HUGGETT: I introduce as Exhibit 1	14	Q. Okay. On the second page of that document,
1.4		15	there is a handwritten notation in the top left corner
15	the employee policy manual that has been previously	16	that says "Brian and Jason." Do you see that?
16	produced here, and the signed acknowledgment of	17	A. Right here?
17	Mr. McLean.	18	Q. Yes.
18	BY MR. HUGGETT:	19	A. Okav.
19	Q. On this document that we've marked as Exhibit	20	
20	1, is that your signature?	1	Q. Is that the location where you were working on
21	A. Yes, sir.	21	May 31? A. Yeah. That's it. That's it.
22	Q. On January 10, 2005?	22	
23	A. Yes, sir.	23	Q. And that's on Cunane Court?
24	Q. When you were hired by CCG?	24	A. Uh-huh.
	15		17
1	A. Yes, sir.	1	Q. And on the first page of that document, there
2	Q. Okay. And page 8 of that document has a	2	is a notation on the bottom left side that says Brad and
3	harassment provision, does it not?	3	Frank. Do you see that?
4	A. Yes, sir.	4	A. Yes.
5	 Q. After Mr. Koch told you about this alleged 	}	
_		5	Q. And is that where Mr. Dodson was working on May
6	comment by Mr. Dodson, why didn't you call Lisa Clemens	6	31?
7	comment by Mr. Dodson, why didn't you call Lisa Clemens at that point in time?		31? A. Possibly, yeah.
_	at that point in time? A. I didn't see it fit.	6	A. Possibly, yeah.Q. And that's around the corner from Cunane Street
7	at that point in time?	6 7 8 9	A. Possibly, yeah. Q. And that's around the corner from Cunane Street on Entre Lane, correct?
7	at that point in time? A. I didn't see it fit.	6 7 8 9	A. Possibly, yeah. Q. And that's around the corner from Cunane Street on Entre Lane, correct? A. It was right across the property. Yeah. About
7 8 9	at that point in time? A. I didn't see it fit. Q. And why is that? A. Because I felt as though I should have contacted my supervisor.	6 7 8 9 10	A. Possibly, yeah. Q. And that's around the corner from Cunane Street on Entre Lane, correct? A. It was right across the property. Yeah. About 150 feet away.
7 8 9 10	at that point in time? A. I didn't see it fit. Q. And why is that? A. Because I felt as though I should have	6 7 8 9	A. Possibly, yeah. Q. And that's around the corner from Cunane Street on Entre Lane, correct? A. It was right across the property. Yeah. About
7 8 9 10 11	at that point in time? A. I didn't see it fit. Q. And why is that? A. Because I felt as though I should have contacted my supervisor.	6 7 8 9 10	A. Possibly, yeah. Q. And that's around the corner from Cunane Street on Entre Lane, correct? A. It was right across the property. Yeah. About 150 feet away. Q. So you left where you were and went over to where Mr. Dodson was working?
7 8 9 10 11 12	at that point in time? A. I didn't see it fit. Q. And why is that? A. Because I felt as though I should have contacted my supervisor. Q. And who was your supervisor at that point in	6 7 8 9 10 11	A. Possibly, yeah. Q. And that's around the corner from Cunane Street on Entre Lane, correct? A. It was right across the property. Yeah. About 150 feet away. Q. So you left where you were and went over to where Mr. Dodson was working? A. Yes.
7 8 9 10 11 12 13	at that point in time? A. I didn't see it fit. Q. And why is that? A. Because I felt as though I should have contacted my supervisor. Q. And who was your supervisor at that point in time?	6 7 8 9 10 11 12	A. Possibly, yeah. Q. And that's around the corner from Cunane Street on Entre Lane, correct? A. It was right across the property. Yeah. About 150 feet away. Q. So you left where you were and went over to where Mr. Dodson was working?
7 8 9 10 11 12 13	at that point in time? A. I didn't see it fit. Q. And why is that? A. Because I felt as though I should have contacted my supervisor. Q. And who was your supervisor at that point in time? A. Brad Dodson.	6 7 8 9 10 11 12 13	A. Possibly, yeah. Q. And that's around the corner from Cunane Street on Entre Lane, correct? A. It was right across the property. Yeah. About 150 feet away. Q. So you left where you were and went over to where Mr. Dodson was working? A. Yes.
7 8 9 10 11 12 13 14	at that point in time? A. I didn't see it fit. Q. And why is that? A. Because I felt as though I should have contacted my supervisor. Q. And who was your supervisor at that point in time? A. Brad Dodson. Q. Mr. Dodson was a foreman, correct?	6 7 8 9 10 11 12 13 14	A. Possibly, yeah. Q. And that's around the corner from Cunane Street on Entre Lane, correct? A. It was right across the property. Yeah. About 150 feet away. Q. So you left where you were and went over to where Mr. Dodson was working? A. Yes. Q. Did you talk to Mr. Dodson or to the other
7 8 9 10 11 12 13 14 15	at that point in time? A. I didn't see it fit. Q. And why is that? A. Because I felt as though I should have contacted my supervisor. Q. And who was your supervisor at that point in time? A. Brad Dodson. Q. Mr. Dodson was a foreman, correct? A. Yes.	6 7 8 9 10 11 12 13 14 15	A. Possibly, yeah. Q. And that's around the corner from Cunane Street on Entre Lane, correct? A. It was right across the property. Yeah. About 150 feet away. Q. So you left where you were and went over to where Mr. Dodson was working? A. Yes. Q. Did you talk to Mr. Dodson or to the other gentleman that was there, Frank? What's Frank's last
7 8 9 10 11 12 13 14 15 16	at that point in time? A. I didn't see it fit. Q. And why is that? A. Because I felt as though I should have contacted my supervisor. Q. And who was your supervisor at that point in time? A. Brad Dodson. Q. Mr. Dodson was a foreman, correct? A. Yes. Q. He did not have the power to hire and fire you,	6 7 8 9 10 11 12 13 14 15 16	A. Possibly, yeah. Q. And that's around the corner from Cunane Street on Entre Lane, correct? A. It was right across the property. Yeah. About 150 feet away. Q. So you left where you were and went over to where Mr. Dodson was working? A. Yes. Q. Did you talk to Mr. Dodson or to the other gentleman that was there, Frank? What's Frank's last name?
7 8 9 10 11 12 13 14 15 16 17	at that point in time? A. I didn't see it fit. Q. And why is that? A. Because I felt as though I should have contacted my supervisor. Q. And who was your supervisor at that point in time? A. Brad Dodson. Q. Mr. Dodson was a foreman, correct? A. Yes. Q. He did not have the power to hire and fire you, did he?	6 7 8 9 10 11 12 13 14 15 16 17	A. Possibly, yeah. Q. And that's around the corner from Cunane Street on Entre Lane, correct? A. It was right across the property. Yeah. About 150 feet away. Q. So you left where you were and went over to where Mr. Dodson was working? A. Yes. Q. Did you talk to Mr. Dodson or to the other gentleman that was there, Frank? What's Frank's last name? A. Neither. I didn't have a conversation with
7 8 9 10 11 12 13 14 15 16 17 18	at that point in time? A. I didn't see it fit. Q. And why is that? A. Because I felt as though I should have contacted my supervisor. Q. And who was your supervisor at that point in time? A. Brad Dodson. Q. Mr. Dodson was a foreman, correct? A. Yes. Q. He did not have the power to hire and fire you, did he? A. He could fire me, yes.	6 7 8 9 10 11 12 13 14 15 16 17 18	A. Possibly, yeah. Q. And that's around the corner from Cunane Street on Entre Lane, correct? A. It was right across the property. Yeah. About 150 feet away. Q. So you left where you were and went over to where Mr. Dodson was working? A. Yes. Q. Did you talk to Mr. Dodson or to the other gentleman that was there, Frank? What's Frank's last name? A. Neither. I didn't have a conversation with either.
7 8 9 10 11 12 13 14 15 16 17 18 19 20	at that point in time? A. I didn't see it fit. Q. And why is that? A. Because I felt as though I should have contacted my supervisor. Q. And who was your supervisor at that point in time? A. Brad Dodson. Q. Mr. Dodson was a foreman, correct? A. Yes. Q. He did not have the power to hire and fire you, did he? A. He could fire me, yes. Q. How do you know that he could fire you?	6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	A. Possibly, yeah. Q. And that's around the corner from Cunane Street on Entre Lane, correct? A. It was right across the property. Yeah. About 150 feet away. Q. So you left where you were and went over to where Mr. Dodson was working? A. Yes. Q. Did you talk to Mr. Dodson or to the other gentleman that was there, Frank? What's Frank's last name? A. Neither. I didn't have a conversation with either. Q. Okay. Did Mr. Coleman have a conversation with
7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	at that point in time? A. I didn't see it fit. Q. And why is that? A. Because I felt as though I should have contacted my supervisor. Q. And who was your supervisor at that point in time? A. Brad Dodson. Q. Mr. Dodson was a foreman, correct? A. Yes. Q. He did not have the power to hire and fire you, did he? A. He could fire me, yes. Q. How do you know that he could fire you? A. He made it very clear, every day.	6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	A. Possibly, yeah. Q. And that's around the corner from Cunane Street on Entre Lane, correct? A. It was right across the property. Yeah. About 150 feet away. Q. So you left where you were and went over to where Mr. Dodson was working? A. Yes. Q. Did you talk to Mr. Dodson or to the other gentleman that was there, Frank? What's Frank's last name? A. Neither. I didn't have a conversation with either. Q. Okay. Did Mr. Coleman have a conversation with either?

Jason McLean

	42		44
1	said they didn't want to get themselves involved.	1	disciplined at all or not?
2	Q. And did they tell you that?	2	A. I have no idea.
3	A. Yeah.	3	Q. Do you know who Jonathan Gates is?
4	Q. Did they tell you whether they actually heard	4	A. Yes.
5	this comment or not?	5	Q. Who is Mr. Gates?
6	A. They said quote, unquote, "I don't want to get	6	A. I believe his title is the regional supervisor
7	involved."	7	for CCG.
8	Q. So they never told you that they heard this	8	Q. And does he have any information relevant to
9	comment?	9	this matter?
10	A. Davey Miller and the other guy, no.	10	A. He should have all of it.
11	Q. Anyone else that you believe Ms. Clemens should	11	Q. And why do you say that?
12	have spoken to?	12	A. Because he's the regional supervisor for CCG.
13	A. No.	13	Q. Was he a witness to any of the events?
14	(McLean Exhibit 5 marked)	14	A. No.
15	BY MR. HUGGETT:	15	Q. Was he involved in any of the events?
16	Q. Let me hand you a document we've marked as	16	A. No. Other than the revoking of our truck
17	Exhibit 5, an employee warning statement. Take a look at	17	privilege. According to my supervisor Bill, John said
18	that and tell me if you've seen that document before.	18	you cannot drive the truck home anymore.
19	A. Yes.	19	Q. Did you ever speak to Mr. Gates about that?
20	Q. Is that your signature at the bottom of that	20	A. I called him and left him a message. Never
21	document?	21	called me back.
22	A. Yes.	22	Q. Wasn't your supervisor Brian Coleman?
23	Q. And is this the document that you told me that	23	A. My supervisor? No.
24	you disagreed with?	24	Q. He was your foreman?
••••	43		45
1	A. Yes.	1	A. At one point in time.
2	Q. And you, indeed, checked the box that says I	2	Q. At the time of the allegation involving the
3	disagree with the company's statement?	3	truck?
4	A. Yes.	4	A. Uh-huh.
5	Q. And is that your handwriting there that's under	5	Q. And what did your supervisor tell you regarding
6	that checked box?	6	the truck?
7	A. Yes.	7	A. That John Gates said you cannot drive the truck
8	Q. And what does that say?	8	home.
9	A. "I never left my job site. We were all working	9	Q. And was an explanation for that given?
10	in the same area."	10	A. No.
11	Q. You told me earlier, in looking at Exhibit 2,	11	Q. Who is Robert Cole?
12	the map of the neighborhood, that in fact, you went from	12	A. I don't know. Robert Koch? I know Robert
13	where you were working to where Mr. Dodson was working?	13	Koch.
14	A. Same area. Same neighborhood.	14	Q. Did you look at the initial disclosures that
15	Q. At least 150 feet away?	15	were filed in this matter?
16	A. Yes. Same area.	16	A. Yeah.
17	Q. And that was the reason that you disagreed with	17	Q. Listed is a witness Robert Cole, also listed
18	this, is that you didn't leave the job site?	18	separately is a Michael B. Koch?
19	A. Yes.	19	A. Typos.
20	Q. Do you know whether anyone else received any	20	Q. Do you believe that those are, in fact, one and
21	discipline as a result of this incident?	21	the same person?
22	A. I think Brian was written up for the exact same	22	A. Yeah. Robert Koch.
23	thing, I believe. I'm not positive, though.	23	Q. He's known as Bobby?
24	Q. You don't know whether Mr. Dodson was	24	A. Yeah.

McLean and Coleman v. Communications Construction Group, LLC Brian Coleman

policy, didn't you? A. A harassment policy? Yeah. Q. Okay. You had gotten the employee policy manual, and had signed for that on a couple of occasions as it had been revised? A. Yes. (Coleman Exhibit 2 marked) BYMR. HUGGETT: Q. We'll mark this as Exhibit 2. The employee policy molicy manual, is that your signature on that document? A. Yes. Q. And there's a couple of pages after that that there were additional signatures that from time to time it would be revised, and you would get a revised copy? A. Uh-huh. Q. And I'm sorry. Did you say you just didn't think to call human resources? A. I mean why would I get the man in trouble? I want to go see if he said it first and see if he is a man to admit what he said. When I went up there, it was obvious that he did say it, because of the way he acted. Q. How did he act? A. He reacted. 1 don't know what you're trying to get at, or what you're trying to ask me. Q. I'm just trying to ask me. Q. I'd ind touch him. A. No. I did not touch him. A. No. I did not touch him. A. No. I did not touch him. Q. Didn't poke him in the chest with your finger back? A. No, I did not. If I would have poked him in the chest with your finger back? A. No, I da'not life was the chest with your finger back? A. No, I did not. If I would have poke ha nim in the chest with your finger back? A. No, I da'not life was the chest with your		22	T	24
2 Lying to ask me. 2 Cokay. You had gotten the employee policy 2 manual, and had signed for that on a coupie of occasions 3 as it had been revised? 3 A. Yes. 3 Py MR. HUGGETT: 4 O. Well mark fits as Exhibit 2. The employee 3 policy manual, is that your signature on that document? 5 A. Yes. 5 A. Wes. 6 A. Yes. 6 A. Ves. 7 O, Well mark fits as Exhibit 2. The employee 9 policy manual, is that your signature on that document? 8 Py MR. HUGGETT: 9 Q. Well mark fits as Exhibit 2. The employee 10 policy manual, is that your signature on that document? 11 A. Yes. 12 Q. And there's a couple of pages after that that 13 there were additional signatures that from time to time 14 it would be revised, and you would get a revised copy? 15 A. Uh-han. 16 Q. And I'm sorry. Did you say you just didn't 16 think to call human resources? 16 A. J mean why would I get the man in trouble? I 17 want to go see if he said it first and see if he is a man 18 to admit what he said. Whel J. Went up there, it was 18 told to me that he said. When I went up there, it was 19 dot one that he said say it, because of the way he acted. 20 Q. How did ha see? 21 Q. How did has es? 22 Q. How did has es? 23 Q. How did has es? 24 A. He reacted. 24 A. He reacted. 25 Q. How did you approach him? 26 A. Iddin't go up there yelling at him. He jumps 27 Giff the machine yelling at me, getting in my face. 28 Talking about "I don't know what you're trying to prove. I'm a Dodson." 29 That's when he was poking me in my chest. 29 Q. You add you didn't come that first day when the incident happened. They came out there after. Well, as a matter of fact, they did come out there the 31st, and what happened was, they told me I had on the well as a paper, and the cop gave me the card. 3 G. What was his first response? 4 A. If May 31st was when I got back? 5 A. I'm sar eit was. But actually, it wen longer than the strip of the machine, you know what I mean, and I was like, 18 "Yo, what's up?" You know what I mean, and I was like, 19 "You, what was the first response? 4 A. He	1		1	don't know what you're trying to get at, or what you're
Q. Okay. You had gotter the employee policy manual, and had signed for that on a couple of occasions as it had been revised? A. Yes. Coleman Exhibit 2 marked) BYMR. HUGGETT: Q. We'll mark this as Exhibit 2. The employee opicity manual, is that your signature on that document? A. Yes. Q. And there's a couple of pages after that that there were additional signatures that from time to time it would be revised, and you would get a revised copy? A. Un-hub. A. Und'm norry. Did you say you just didn't think to call human resources? A. I mean why would! get the man in trouble? I wanto go see if he said if thist and see if he is a man to admit what he said. Whell, allegedly said. What was to did to me that he said. Whell were to admit what he said. Whell, allegedly said. What was to obvious that he did say it, because of the way he acted. Q. How did he anc? A. How did you approach him? A. I didn't so up there yelling at him. He jumps off the machine yelling at me, getting in my face. Talking about. I don't know what you're trying to do. I don't know what you're trying to fore. That's when he was poking me in my cheet. That's when he was poking me in my cheet. That's when he was poking me in my cheet. Q. Wou said you didn't yell at him. Q. What was the first thing that you said to him? A. No. I didn't yell at him. Q. What was the first thing that you said to him? A. No. I didn't yell at him. Q. What was the first thing that you said to him? A. No. I didn't yell at him. Q. What was the first thing that you said to him? A. No. I didn't yell at him. Q. What was the first thing that you said to him? A. No. I didn't yell at him. Q. What was the first thing that you said to him? A. No. I didn't yell at him. Q. What was the first thing that you said to him? A. No. I didn't yell at him. Q. What was the first thing that you said to him? A. No. I didn't yell at him. Q. What was the first thing that you said to him? A. No. I didn't yell at him. Q. What was the first thing that you said to him? A. No. I didn't yell at him. Q. What w		-	2	
manual, and had signed for that on a couple of occasions as it had been revised? A. Yes. (Colerans Exhibit 2 marked) By MR. HUGGETT: Q. Well mark finis as Exhibit 2. The employee policy manual, is that your signature on that document? A. Yes. 10 policy manual, is that your signature on that document? A. Yes. 11 would be revised, and you would get a revised copy? 5 A. Uh-hult. Q. And I'm sorry. Did you say you just didn't think to call human resources? A. I mean why would get the man in trouble? I want to go see if he said it first and see if he is a man to did it will be asid. When I went to think to ealth was the first think to ealth was the said. When I went up there, it was belowious that he did say it, because of the way he acted. Q. How did he act? A. Horeacted. 23 Q. How did you spproach him? A. I didn't go up there yelling at him. He jumps off he machine yelling at me, getting in my face. Taking about "I doe't know what you're trying to prove. I'm a Dodson." That's when he was poking me in my chest. Taking about "I doe't know what you're trying to prove. I'm a Dodson." That's when he was poking me in my chest. Taking about "I doe't know what you're trying to prove. I'm a Dodson." A. I said, "Man, what's going on? I'm over here basting my map for you, how you going to call me a dumb nigger?" Or something to that effect. Q. What was the first thing that you said to him? A. I said, "Man, what's going on? I'm over here basting my mymap for you, how you going to call me a dumb nigger?" Or something to that effect. Q. What was the first said finat. So he jumped off the machine, you know what I mean, and I saked him a shout the dumb nigger incident or remark. And that's what the said, "You know what I mean, and I saked him a shout the dumb nigger incident or remark. And that's what they said, "I don't know what you're trying to prove or whatever." And that's when the poking started. 20 And that i should get the hell away fron		· -	3.	· ·
ss it had been revised? A. Yes. (Coleman Exhibit 2 marked) BY MR. HUGGETT: Q. We'll mark fin's as Exhibit 2. The employee policy manual, is that your signature on that document? A. Yes. Q. And there's a couple of pages after that that there were additional signatures that from time to time ti would be revised, and you would get a revised copy? A. Uh-huh. A. Uh-huh. A. Jamean why would Jage the man in trouble? I want to go see if he said. Well, allegedly said. What was to damit what he said. Well, allegedly said. What was to down to me that he said. When I went up there, it was obvious that he did say it, because of the way he acted. Q. How did you approach him? A. He'reacted. Q. How did you approach him? A. I didn't go up there yelling at him. He jumps off the machine yelling at me, getting in my face. Talking about "I don't know what you're trying to do. I don't know what you're trying to prove. I'm a Dodson." That's when he was poking me in my cheet. D. What was the first thing that you said to him? A. I asid, "Man, what's going on? I'm over here busing my rump for you, how you going to call me a damb ringer?" Or something to that effect. Q. What was the first thing that you said to him? A. I asid, "Man, what's going on? I'm over here busing my rump for you, how you going to call me a damb ringer?" Or something to that effect. Q. What was the first thing that you said to him? A. I asid, "Man, what's going on? I'm over here busing my rump for you, how you going to call me a damb ringer?" Or something to that effect. Q. What was the first thing that you said to him? A. I asid, "Man, what's going on? I'm over here busing my rump for you, how you going to call me a damb ringer?" Or something to that effect. Q. What was the first thing that you said to him? A. I asid, "Man, what's going on? I'm over here busing my rump for you, how you going to call me a damb ringer?" Or something to that effect. Q. What was the first thing that you said to him? A. I asid, "Man, what's going on? I'm over here busing my rump for		• •	4	
6 A. Yes. 7 (Coleman Exhibit 2 marked) 8 BYMR. HUGGETT: 9 Q. We'll mark this as Exhibit 2. The employee policy manual, is that your signature on that document? 10 policy manual, is that your signature on that document? 11 A. Yes. 12 Q. And there's a couple of pages after that that there were additional signatures that from time to time it would be revised, and you would get a revised copy? 15 A. Uh-huh. 16 Q. And I'm sorry. Did you say you just didn't think to call human resources? 18 A. J mean why would I get the man in trouble? I want to go see if he said it first and see if he is a man to admit what he said. When I went up there, it was told to me that he said. When I went up there, it was told to me that he said. When I went up there, it was told to me that he said. When I went up there, it was told to me that he said. When I went up there, it was told to me that he said. When I went up there, it was told to me that he said. When I went up there, it was told to me that he said. When I went up there, it was told to me that he said. When I went up there, it was told to me that he said. When I went up there, it was told to me that he said. When I went up there, it was told to me that he said. When I went up there, it was told to me that he said. When I went up there, it was told to me that he said. When I went up there, it was told to me that he said. When I went up there, it was told to me that he said. When I went up there, it was told to me that he said. When I went up there, it was told to me that he said. When I went up there, it was told to me that he said. When I went up there, it was told to me that he said. When I was the first thing that you said to him? 2 A. I didn't go up there yelling at him. He jumps 3 off the machine yelling at me, getting in my face. 4 Talking about "I don't know what your trying to prove. I'm a Dodson." 5 Q. You said you didn't yell at him. 6 A. No, I didn't yell a thim. 7 Q. How did have been arrested, too, right? Let me ask you a question. 8 A. No, I didn't yell a him. 8 A.			5	**
Coleman Exhibit 2 marked) 7 back? A. No, I did not. If I would have poked him in the policy manual, is that your signature on that document? 10 A. Yes. 11 ask you a question. 12 ask you a question. 12 ask you a question. 13 three were additional signatures that from time to time the were additional signatures that from time to time the word did here's a couple of pages after that that there were additional signatures that from time to time the word did here's a couple of pages after that that there were additional signatures that from time to time the word did here's a couple of pages after that that the word here's a couple of pages after that that the word here's a couple of pages after that that the word there's a couple of pages after that that the word there's a couple of pages after that that the word there's a couple of pages after that that the word there's a couple of pages after that that the word there's a couple of pages after that that the word there's a couple of pages after that that the word there's a couple of pages after that that the word there's a couple of pages after that that the word there's a couple of pages after that that the thind say out a question.			6	Q. Didn't poke him in the chest with your finger
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		.	0.0	Brad Dodgon Brian Coleman Jacon McLean Robby Koch
24 there. Never once did I put my hands back on him, so 1 1 24 I guess.	22			•
- D	22 23	And that I should get the hell away from	23	Frank Workowski, or whatever his name is. David Miller,

McLean and Coleman v. Communications Construction Group, LLC Brian Coleman

22 24 don't know what you're trying to get at, or what you're policy, didn't you? 1 2 2 A. A harassment policy? Yeah. trying to ask me. 3 Q. I'm just trying to figure out exactly what O. Okay. You had gotten the employee policy 3 happened. So it's your testimony you did not touch him? 4 manual, and had signed for that on a couple of occasions 4 5 A. No. I did not touch him. 5 as it had been revised? 6 Q. Didn't poke him in the chest with your finger 6 A. Yes. 7 (Coleman Exhibit 2 marked) 7 back? 8 A. No, I did not. If I would have poked him in 8 BY MR. HUGGETT: 9 the chest I would have been arrested, too, right? Let me 9 O. We'll mark this as Exhibit 2. The employee 10 ask you a question. policy manual, is that your signature on that document? 10 MR. POLIQUIN: You're only supposed to 11 11 12 answer questions. 12 Q. And there's a couple of pages after that that 13 Q. You called the police. there were additional signatures that from time to time 13 A. Yes, I did. it would be revised, and you would get a revised copy? 14 14 A. Uh-huh. 15 O. And they came out? 15 16 A. I don't think it was that day. I think it was Q. And I'm sorry. Did you say you just didn't 16 17 when I got back off of my vacation. 17 think to call human resources? 18 Q. You don't recall them being there on May 31st? A. I mean why would I get the man in trouble? I 18 A. If May 31st was when I got back from my 19 19 want to go see if he said it first and see if he is a man 20 vacation, that's when they was there. If the incident to admit what he said. Well, allegedly said. What was 20 happened before May 31st -- they didn't come that first told to me that he said. When I went up there, it was 21 21 22 obvious that he did say it, because of the way he acted. day when the incident happened. They came out there 22 23 after. Well, as a matter of fact, they did come out 23 O. How did he act? 24 there the 31st, and what happened was, they told me I had 24 A. He reacted. 25 23 1 to go to court -- some court up there in New Castle, and Q. How did you approach him? 1 2 go fill out a -- a paper, and the cop gave me the card. 2 A. I didn't go up there yelling at him. He jumps 3 I still got the card at home. I had to take that up 3 off the machine yelling at me, getting in my face. there, and they signed a warrant out for his arrest and Talking about "I don't know what you're trying to do. I 4 don't know what you're trying to prove. I'm a Dodson." 5 all that stuff. The. 5 6 That's when he was poking me in my chest. (Coleman Exhibit 3 marked) 6 7 BY MR. HUGGETT: Q. You said you didn't yell at him. 7 O. I'm going to hand you what we've marked as 8 8 A. No, I didn't yell at him. 9 Q. What was the first thing that you said to him? 9 Exhibit 3 to your deposition. It's a vacation time off A. I said, "Man, what's going on? I'm over here request form, that identifies vacation for June 1 through 10 10 busting my rump for you, how you going to call me a dumb 10th for you. So would that be the vacation to which 11 11 12 you're referring? nigger?" Or something to that effect. 12 A. I'm sure it was. But actually, it went longer 13 Q. What was his first response? 13 14 A. I don't exactly remember what his first 14 than that, because I called and I stayed longer. Q. Okay. So you do recall the police coming out response was. He was on the machine. I don't think he 15 15 even quite heard me when I first said that. So he jumped to the area where everyone was working on the 31st? 16 16 off the machine, you know what I mean, and I was like, 17 A. Yes. 17 "Yo, what's up?" You know what I mean. And I asked him 18 Q. And what did they do? 18 19 19 A. Took everybody's statement. about the dumb nigger incident or remark. And that's 20 Q. And by "everyone," who are you referring to? 20 what he said, "I don't know what you trying to start. I A. Everybody that was in the thing. Dave Dodson, 21 don't know what you're trying to prove or whatever." And 21 22 Brad Dodson, Brian Coleman, Jason McLean, Bobby Koch, 22 that's when the poking started. 23 Frank Workowski, or whatever his name is. David Miller, And that I should get the hell away from 23 there. Never once did I put my hands back on him, so I 24 I guess. 24

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McLean and Coleman v. Communications Construction Group, LLC Jason McLean

54		
Q. You stated that after May 31, 2005, you were	1	would talk to you like that. And then just a couple
2 assigned to cleanup work?	2	weeks ago he was telling the regional supervisor that we
3. A. Uh-huh.	3	were some of the best guys he's ever worked with, and
4 Q. And what was the pay rate for that cleanup	4	that we smile in his face and he smiles in our face every
5 work?	5	day, to find out that he's saying something that terrible
6 A. \$11 an hour.	6	behind our backs kind of hurts.
7. O: And do you know how that compared to other work	7	Q. And he didn't say this directly to you, he said
8 that you would be doing, you could be doing?	8	it to other employees?
9 A. Probably about half the pay.	9	A. Yes. Which kind of makes it worse.
10 Q. On May 31, 2005, after you had reported the	10	Q. And Brad Dodson stated to you on May 31, 200:
incident that you and Brian Coleman had with Brad Dodson	11	that he, in fact, did not make the statement?
1:2 to Lisa Clemens.	12	A. Yes.
13 A. Uh-huh.	13	Q. Did any other employee tell you that Brad
14 Q. And how did you report that incident?	14	Dodson, in fact, did not make that statement?
A. I called 411, and got the number for CCG, and	15	A. That he did not make it?
then asked for HR. And talked that's the first time I	16	Q. Yes.
ever talked to her, when I told her what was going on,	17	A. No. Nobody ever said he didn't.
and she thanked me, and — then I got wrote up for it.	18	Q. Did any other employees tell you that he did
O. Now, what was Dave Dodson's position on May 31,	19	make the statement?
2:0 2005 with CCG?	20	A. Nobody came other than Robert Koch and
A. He was the site supervisor, I believe, that's	21	Joseph Tatsch, nobody came straight forward and said t
22 what they called him. Basically he was the supervisor of	22	he made the statement, but
23 all the foremen in that area.	23	Q. But Robert Koch and Joseph Tatsch did say
2.4 Q. And do you know what his relationship was with	24	affirmatively that he made the statement?
55		ariamativity and no made the categories.
	-	A XZ D (C) 1 (Z) and d (Z) and line
1 Brad Dodson?	1 2	A. Yes. But from what I could read it really
2 A. Brother.	3	doesn't count for anything, but what I can read from
Q: Did the situation on May 31, 2005, between Brad		Davey Miller, the way he said, "I'm not getting
4. Dödson, Brian Coleman, and yourself, become physical at	4	involved," was kind of his admission that, yeah, I hear
5 some point in time?	. 5	it but I'm not going to put my career on the line for
6 A. Yeah. When Brad hopped off the machine and	6	something like that.
7 started poking Brian in the chest, it seemed like he was	7	Q. And in fact, Brad Dodson was charged with
8 trying to start something, yeah.	8	criminal offenses concerning what happened on May 3
9 Q: And how long did Brad Dodson poke Brian Coleman	9	2005?
0 in the chest for?	10	A. Yeah. I went to court that day and he ended up
A. Oh, it was about four or five, six pokes.	11	getting found guilty.
2 Probably a couple seconds over a period of their little	12	Q. And do you know if the company took any acti
3' conversation they were having.	13	after he had pled guilty?
4 Q. And what was Brian Coleman's response?	14	A. No. Because to my knowledge, he kept working
A. He took two steps backwards, and pulled his	15	for them after we were laid off, he was transferred to a
6 phone out and dialed 911.	16	aerial construction site, along with a couple other guys
Q. Now, you were informed by Robert Koch that Brad	17	and after that, I don't know what happened. I don't know
8 Dodson had referred to you as "two dumb niggers"?	18	what happened to him.
19 A. Yes.	19	Q. When you were transferred from the New Cast
	20	site, did you ask anyone, ask any of your supervisors v
20 Q. And how did that make you feel?		you were transferred?
Q. And how did that make you feel? A. Upset	21	•
Q. And how did that make you feel? A. Upset. Q. And why?	21 22	A. Yeah.
Q. And how did that make you feel? A. Upset		•

Brian Coleman

·	26		28
1	Q. And-the police told you that you needed to file	1	A. That was the place. Angola, Delaware.
	a further report?	2	Q. So, not Hockessin or
3	A. They told me I needed to?	.3	A. Not Hockessin.
4	Q. Is that	4	O. Or in addition to Hockessin?
5	A. No.	5	A. No. It was Angola.
6	Q. Okay. What did they do?	6	Q. How long did you work in Angola?
7	A. They told me it was up to me what I wanted to	7	A. That was that three days I told you.
8	do. But they had two or more people who heard him say	8	Q. And you went straight from Angola to
1	this, and I could they was going to give me the card	9	Westchester?
1	where I can go down to the court and have him arrested if	10	A. Yeah. Westchester and Oaks, Pennsylvania,
,	I wanted to, and I chose to.	11	which is even farther than Westchester.
12	Q. Did anyone tell you that you couldn't do that?	12	Q. So you don't recall being in Angola for several
13	A. Not that I know of.	13	weeks?
14	Q. And that document that we've looked at as	14	A. No. I don't remember. It seemed like it was
15	Exhibit Number 1 was dated June 17th. Was that as soon	15	only like three days, four days. Not even a week. Not
16	as you got back from vacation, or	16	no several weeks. I don't know. Could have been, I
17	A. I don't remember.	17	don't remember.
18	Q. Okay.	18	Q. How did you get down to Angola?
19	MR. POLIQUIN: Can we take a quick	19	A. What did you mean how did I get down there?
20	break for a second?	20	Q. Did you take a company vehicle or did you take
21	(Brief recess held)	21	your own vehicle?
22	BY MR. HUGGETT:	22	A. Yeah, right. Took our own vehicle.
23	Q. What happened when you returned from your	23	Q. In fact, that was always how you got to work,
24	vacation?	24	correct?
	27		29
1	A. A whole bunch. I don't we got transferred,	1	A. Until we got to Westchester. We had a truck, I
2	they had told us they didn't know what they was going to	2	had a truck like all the rest of the foremen.
3	do with us. They had me laying pipe for a little bit up	3	Q. Well, you said you were previously a foreman
l .	in I believe it was Hockessin, Delaware, up by the	4	for cable TV work and you didn't have a truck then, did
5	beach, for like three days. Snatched us off that, and	. 5	you?
6	that's when we went to Westchester.	6	A. They didn't give trucks then, because you were
7	Q. When you came back, were you on Brad Dodson's	7	doing cable TV. They had a van. There was vans.
	crew?	8	Whatever job sites you were in, because most of the time
9	A. No.	9	you were working out of town, you would drive that van to
10	Q. Whose crew were you on?	10	that shop and get in your car and go home or to the
11	A. I guess you could call it my own for three	11 12	motel.
1	days.	13	Q. How did you get the truck in Westchester?A. Oh, what's his name? I don't remember the
13	Q. And when you say your own, you would have been a foreman for that crew?	14	supervisor's name. Billy Grover, I think it is. Bill
14	A. Yeah.	15	Grover.
16	Q. Who else was on the crew?	16	Q. Did he assign you the vehicle for work
17	A. I believe it was Jason McLean, and Harry Ortiz.	17	purposes?
18	Q. Previously, that crew, Mark Lynch was the	18	A. I had a brand new truck, it was Jason's truck
l	foreman, correct?	19	that he was using during the day, he told us we could run
20	A. Mark Lynch.	20	back and forth with the old one. Everybody else had a
21	Q. Worked with Harry Ortiz?	21	truck, why shouldn't we have a truck is what he told us.
22	A. I don't remember. I don't even remember a Mark	22	Q. When did he make that statement?
1	Lynch.	23	A. I don't know. Sometime during the time we were
23			

McLean and Coleman v. Communications Construction Group, LLC Brian Coleman

	. 26		28
1	Q. And the police told you that you needed to file	1	A. That was the place. Angola, Delaware.
2	a further report?	2	Q. So, not Hockessin or
3	A. They told me I needed to?	3	A. Not Hockessin.
4	Q. Is that	4	Q. Or in addition to Hockessin?
5	A. No.	5	A. No. It was Angola.
6	Q. Okay. What did they do?	6	Q. How long did you work in Angola?
7	A. They told me it was up to me what I wanted to	7	A. That was that three days I told you.
8	do. But they had two or more people who heard him say	8	Q. And you went straight from Angola to
9	this, and I could they was going to give me the card	9	Westchester?
10	where I can go down to the court and have him arrested if	10	A. Yeah. Westchester and Oaks, Pennsylvania,
11	I wanted to, and I chose to.	11	which is even farther than Westchester.
12	Q. Did anyone tell you that you couldn't do that?	12	Q. So you don't recall being in Angola for several
13	A. Not that I know of.	13	weeks?
14	Q. And that document that we've looked at as	14	A. No. I don't remember. It seemed like it was
15	Exhibit Number 1 was dated June 17th. Was that as soon	15	only like three days, four days. Not even a week. Not
16	as you got back from vacation, or	16	no several weeks. I don't know. Could have been, I
17	A. I don't remember.	17	don't remember.
18	Q. Okay.	18	Q. How did you get down to Angola?
19	MR. POLIQUIN: Can we take a quick	19	A. What did you mean how did I get down there?
20	break for a second?	20	Q. Did you take a company vehicle or did you take
21	(Brief recess held)	21	your own vehicle?
22	BY MR. HUGGETT:	22	A. Yeah, right. Took our own vehicle.
23	Q. What happened when you returned from your	23	Q. In fact, that was always how you got to work,
24	vacation?	24	correct?
	27		29
1	A. A whole bunch. I don't we got transferred,	1	A. Until we got to Westchester. We had a truck, I
2	they had told us they didn't know what they was going to	2	had a truck like all the rest of the foremen.
3	do with us. They had me laying pipe for a little bit up	3	Q. Well, you said you were previously a foreman
4	in I believe it was Hockessin, Delaware, up by the	4	for cable TV work and you didn't have a truck then, did
5	beach, for like three days. Snatched us off that, and	5	you?
6	that's when we went to Westchester.	6	A. They didn't give trucks then, because you were
7	Q. When you came back, were you on Brad Dodson's	7	doing cable TV. They had a van. There was vans.
8	crew?	8	Whatever job sites you were in, because most of the time
9	A. No.	.9	you were working out of town, you would drive that van to
10	Q. Whose crew were you on?	10	that shop and get in your car and go home or to the
11	A. I guess you could call it my own for three	11	motel.
12	days.	12	Q. How did you get the truck in Westchester?
13	Q. And when you say your own, you would have been	13	A. Oh, what's his name? I don't remember the
14	a foreman for that crew?	14	supervisor's name. Billy Grover, I think it is. Bill
15	A. Yeah.	15	Grover.
16	Q. Who else was on the crew?	16	Q. Did he assign you the vehicle for work
17	A. I believe it was Jason McLean, and Harry Ortiz.	17	purposes?
18	Q. Previously, that crew, Mark Lynch was the	18	A. I had a brand new truck, it was Jason's truck
19	foreman, correct?	19	that he was using during the day, he told us we could run
20	A. Mark Lynch.	20	back and forth with the old one. Everybody else had a
21	Q. Worked with Harry Ortiz?	21	truck, why shouldn't we have a truck is what he told us.
22	A. I don't remember. I don't even remember a Mark	22	Q. When did he make that statement?
23	Lynch.	23	A. I don't know. Sometime during the time we were
24	Q. Did you do any work down in Angola?	24	working up there.

McLean and Coleman v. Communications Construction Group, LLC Jason McLean

	30	Ī	32
1	A. In Westchester.	1	maybe a month before I was laid off.
2	Q. Was the work that you were doing in Angola	2	Q. And that was while you were working in
3	different than the work that you were doing in New	3	Westchester?
4	Castle?	4	A. No. We were actually transferred up to Oaks,
5	A. Same work.	5	Pennsylvania, at that time.
6	Q. Was the work different that you were doing in	6	Q. Why did you go up to Oaks, Pennsylvania?
7	Westchester? Was the work in Westchester that you were	7	A. Because I was told to.
8	doing for CCG different than the work in New Castle or	8	Q. Why did the company go up there?
9	Angola?	9	A. I don't know.
10	A. Same work.	10	Q. What kind of work was being done in Oaks,
11	Q. Employees of the company are paid based on a	11	Pennsylvania?
12	rate schedule that varies by the contract that you're	12	A. Same work.
13	working on, correct?	13	Q. And just so we're clear, can you describe, when
14	A. Yes.	14	you say same work, what was the work that was being done?
15	Q. And that rate schedule was different for New	15	A. Underground utilities.
16	Castle and Angola, correct?	16	Q. When you were working in Angola, how did you
17	A. No.	17	get to Angola?
18	Q. Was that rate schedule different for New Castle	18	A. Drove my car.
19	and Westchester?	19	Q. Prior to working in Angola, had you always
20	A. Yes.	20	driven your car to get to work?
21	Q. Why was that rate schedule different?	21	A. Yes.
22	A. I don't know.	22	Q. And did you drive your car to get to work in
23	Q. Were you given copies of that rate schedule?	23	Westchester?
24	A. Not to my no. No.	24	A. Partially.
***************************************	31		
1	Q. Do you recall seeing the rate schedules?	1	Q. When you started work in Westchester, were you
2	A. Yes.	2	driving your car?
3	(McLean Exhibits 3 and 4 marked)	3	A. No.
4	BY MR. HUGGETT:	4	Q. How did you get to Westchester the first day
5	Q. I've marked as Exhibit 3 the rate schedule for	5	you went there?
6	Delaware FIOS work. Is that the rate schedule that you	6	A. Company truck.
7	have previously seen?	7	Q. From where?
8	A. No. Never seen this piece of paper before.	8	A. From the company.
9	Q. Okay. Can you describe what you've seen?	9	Q. From New Castle?
10	A. I seen a copy of just a brief rundown on the	10	A. Yeah,
11	back of my paycheck of what you get paid per foot.	11	Q. To Westchester?
12	Q. Is that this document?	12	A. No. From Angola to Westchester.
13	A. It might be. It looks like a copy. I don't	13	Q. Oh, you went all the way from Angola up to
14	remember seeing anything like this, but it was similar.	14	Westchester?
15	Q. Exhibit 4 is marked the southeast PA FIOS drops	15	A. Went from Angola home well, no. Went from
16	for Pennsylvania rate schedule. Have you ever seen that	16	home that day to Angola to Westchester.
17	rate schedule?	17	Q. Okay. And how did you get home that evening?
1		18	A. I don't recall that evening. Eventually, we
18	A. No. They never provided us anything like this.		had a truck, they provided us a truck to drive.
19	Q. Did you ever ask for a copy of the rate	19	· · · · · · · · · · · · · · · · · · ·
20	schedule?	20	Q. Who provided you with a truck?
21	A. No.	21	A. Oh, what's his name? Bill Grover.
22	Q. When were you promoted to the position of	22	Q. Did he provide that to you?
23	foreman?	23	A. Brian and I. He knew that both of us were
24	A. I don't recall the exact date. Take a stab,	24	riding in it.

McLean and Coleman v. Communications Construction Group, LLC Brian Coleman

1	26		28
1 -		1	A. That was the place. Angola, Delaware.
1 2	Q. And the police told you that you needed to file	2	
2	a further report?	3	Q. So, not Hockessin or A. Not Hockessin.
	A. They told me I needed to?	4	Q. Or in addition to Hockessin?
4	Q. Is that	5	•
5	A. No.		A. No. It was Angola.
6	Q. Okay. What did they do?	6.	Q. How long did you work in Angola?
7	A. They told me it was up to me what I wanted to	7	A. That was that three days I told you.
8	do. But they had two or more people who heard him say	8	Q. And you went straight from Angola to
9	this, and I could they was going to give me the card	9	Westchester?
10	where I can go down to the court and have him arrested if	10	A. Yeah. Westchester and Oaks, Pennsylvania,
11	I wanted to, and I chose to.	11	which is even farther than Westchester.
12	Q. Did anyone tell you that you couldn't do that?	12	Q. So you don't recall being in Angola for several
13	A. Not that I know of.	13	weeks?
14	Q. And that document that we've looked at as	14	A. No. I don't remember. It seemed like it was
15	Exhibit Number 1 was dated June 17th. Was that as soon	15	only like three days, four days. Not even a week. Not
16	as you got back from vacation, or	16	no several weeks. I don't know. Could have been, I
17	A. I don't remember.	17	don't remember.
18	Q. Okay.	18	Q. How did you get down to Angola?
19.	MR. POLIQUIN: Can we take a quick	19	A. What did you mean how did I get down there?
20	break for a second?	20	Q. Did you take a company vehicle or did you take
21	(Brief recess held)	21	your own vehicle?
22	BY MR. HUGGETT:	22	A. Yeah, right. Took our own vehicle.
23	Q. What happened when you returned from your	23	Q. In fact, that was always how you got to work,
24	vacation?	24	correct?
	27		. 29
1	A. A whole bunch. I don't we got transferred,	1	A. Until we got to Westchester. We had a truck, I
2	they had told us they didn't know what they was going to	2	had a truck like all the rest of the foremen.
3	do with us. They had me laying pipe for a little bit up	3	Q. Well, you said you were previously a foreman
4	in I believe it was Hockessin, Delaware, up by the	4	for cable TV work and you didn't have a truck then, did
5	beach, for like three days. Snatched us off that, and	5	you?
6	that's when we went to Westchester.	6	A. They didn't give trucks then, because you were
7	Q. When you came back, were you on Brad Dodson's	7	doing cable TV. They had a van. There was vans.
8	crew?	8	Whatever job sites you were in, because most of the time
9	A. No.	9	you were working out of town, you would drive that van to
10	Q. Whose crew were you on?	10	that shop and get in your car and go home or to the
11	A. I guess you could call it my own for three	11	motel.
12	days.	12	Q. How did you get the truck in Westchester?
	Q. And when you say your own, you would have been	13	A. Oh, what's his name? I don't remember the
		14	supervisor's name. Billy Grover, I think it is. Bill
13	a foreman for that crew?		
13 14	a foreman for that crew?	1	Grover
13 14 15	A. Yeah.	15	Grover. O Did he assign you the vehicle for work
13 14 15 16	A. Yeah.Q. Who else was on the crew?	15 16	Q. Did he assign you the vehicle for work
13 14 15 16 17	A. Yeah.Q. Who else was on the crew?A. I believe it was Jason McLean, and Harry Ortiz.	15 16 17	Q. Did he assign you the vehicle for work purposes?
13 14 15 16 17 18	A. Yeah.Q. Who else was on the crew?A. I believe it was Jason McLean, and Harry Ortiz.Q. Previously, that crew, Mark Lynch was the	15 16 17 18	Q. Did he assign you the vehicle for workpurposes?A. I had a brand new truck, it was Jason's truck
13 14 15 16 17 18 19	A. Yeah.Q. Who else was on the crew?A. I believe it was Jason McLean, and Harry Ortiz.Q. Previously, that crew, Mark Lynch was the foreman, correct?	15 16 17 18 19	Q. Did he assign you the vehicle for work purposes?A. I had a brand new truck, it was Jason's truck that he was using during the day, he told us we could run
13 14 15 16 17 18 19 20	 A. Yeah. Q. Who else was on the crew? A. I believe it was Jason McLean, and Harry Ortiz. Q. Previously, that crew, Mark Lynch was the foreman, correct? A. Mark Lynch. 	15 16 17 18 19 20	Q. Did he assign you the vehicle for work purposes? A. I had a brand new truck, it was Jason's truck that he was using during the day, he told us we could run back and forth with the old one. Everybody else had a
13 14 15 16 17 18 19 20 21	 A. Yeah. Q. Who else was on the crew? A. I believe it was Jason McLean, and Harry Ortiz. Q. Previously, that crew, Mark Lynch was the foreman, correct? A. Mark Lynch. Q. Worked with Harry Ortiz? 	15 16 17 18 19 20 21	Q. Did he assign you the vehicle for work purposes? A. I had a brand new truck, it was Jason's truck that he was using during the day, he told us we could run back and forth with the old one. Everybody else had a truck, why shouldn't we have a truck is what he told us.
13 14 15 16 17 18 19 20 21	 A. Yeah. Q. Who else was on the crew? A. I believe it was Jason McLean, and Harry Ortiz. Q. Previously, that crew, Mark Lynch was the foreman, correct? A. Mark Lynch. Q. Worked with Harry Ortiz? A. I don't remember. I don't even remember a Mark 	15 16 17 18 19 20 21 22	Q. Did he assign you the vehicle for work purposes? A. I had a brand new truck, it was Jason's truck that he was using during the day, he told us we could run back and forth with the old one. Everybody else had a truck, why shouldn't we have a truck is what he told us. Q. When did he make that statement?
13 14 15 16 17 18 19 20 21	 A. Yeah. Q. Who else was on the crew? A. I believe it was Jason McLean, and Harry Ortiz. Q. Previously, that crew, Mark Lynch was the foreman, correct? A. Mark Lynch. Q. Worked with Harry Ortiz? 	15 16 17 18 19 20 21	Q. Did he assign you the vehicle for work purposes? A. I had a brand new truck, it was Jason's truck that he was using during the day, he told us we could run back and forth with the old one. Everybody else had a truck, why shouldn't we have a truck is what he told us.

McLean and Coleman v. Communications Construction Group, LLC Brian Coleman

	30		32
1	O. But it wasn't right when you started working up	1	A. I mean it's the same type thing, but different
2	there?	2	a little bit, yeah. You could say.
3	A. I don't remember that. I really don't.	3	Q. Has different rates associated with payments?
4	Q. And what happened with regard to that?	4	A. A lot different. I think I was getting about
5	A. The truck got taken away from us.	5	1.20 a foot for doing that underground drops. That one
6	Q. How did that happen?	6	was like 3.65 a foot we were getting. I think. Don't
7	A. Well, allegedly, John Gates told him we didn't	7	quote me but the big pipe, I don't know exactly what
8	need a truck.	8	it was.
9	Q. And when you say allegedly, what do you mean?	9	Q. When you're doing drops, you don't have to
10	A. Well, I mean that's what Billy Grover said.	10	spend extra time setting vaults though, correct?
11	But you don't know what to believe. I didn't hear it	11	A. You still got to dig into the vault.
12	from his mouth, so I don't know if he said it or not.	12	Q. But when you're setting vaults you don't get
13	Q. You heard that from Mr. Grover?	13	paid for setting a vault per se. There's not a rate for
14	A. Correct.	14	that, is there?
15	MR. POLIQUIN: Brian, if I could	15	A. No. There's not. But the price makes up for
16	just off the record.	16	not getting paid to set vaults. 3.65 is a lot different
17	(Brief discussion off the record)	17	than 1.20.
18	BY MR. HUGGETT:	18	Q. So the 3.65 includes payment for setting the
19	Q. Did you know why you went from Angola up to	19	vault, right? That's part of that. And the 1.20 doesn't
20	Westchester?	20	require that. You have to dig into it, but you don't
21	A. Sure don't.	21	have to set it, which is a lot of work.
22	Q. No one ever told you anything?	22	A. No, you don't have to set it.
23	A. (Witness shakes head).	23	Q. Were you working more hours directly when you
24	Q. Did you understand that the Verizon contract	24	came up to Westchester?
	31		33
1	was being closed?	1	A. It varied. Could go back and forth I mean
2	A. Nobody ever told me. I don't know.	2	any day with underground utilities, you can have a bad
3	Q. But you did say it was the nature of the work	3	day, something can go wrong.
4	that employees went and did the work	4	Q. Does the weather interfere with being able to
5	A. Traveled, yeah.	5	do the work?
6	Q wherever it was? What was the work that was	6.	A. Unexpected. I mean Brad had us working in the
7	being done in Westchester?	7	rain. Didn't matter. The rain, to me, didn't have
8	A. When we got transferred?	8	nothing to do with it, no. Wintertime when the ground
9	Q. Yeah.	9	got frozen, that would be a different story.
10	A. Drop work. Underground drops. Instead of	10	Q. And it's correct, isn't it, that in fact, after
11	doing big pipe, you do little small drops. Got to run	11	you came up to Westchester, you were taking home more, on
12	from here to there, there to there. There to there. It	12	average in pay, per week, than you were in New Castle?
13	was just crazy. Monotonous. Versus the main line, you	13	A. I don't I don't remember, but if I did, I
14	go to a neighborhood and sit in that neighborhood and	14	had to work a lot harder to get it.
15	just work, work, work.	15	Q. How is that?
16	Q. So the drops can be in various neighborhoods in	16	A. Because I had to wake up two hours earlier to
17	a given day?	17	get to work on time, then, versus like I said, sitting in
18	A. Absolutely.	18	one development, one neighborhood, working up this street
19	Q. Is it easier work?	19	all day long, I had to run 20 miles this way, 20 miles
20	A. I'm not going to say it's easier. I mean it's	20	this way, 15 miles that way, ten miles that way, to knock
21	all back-busting work. I mean it's hard labor work.	21 22	out four or five jobs in a day to make any money at all. Then you still got to split that 1.20 with Ortiz or
22	That's all it is.	l	
l	O Itla different than what was award daing darm in	122	whoever your helper was life not like you are taking
23 24	Q. It's different than what you were doing down in New Castle?	23 24	whoever your helper was. It's not like you are taking home a whole 1.20.

McLean and Coleman v. Jason McLean 36 34 Q. Do you recall when that happened? 1 out of New Castle, it wasn't just one \$1.20 rate, was 1 A. The same week that we started working up there, 2 there? 2 3 3 probably the second, maybe third day. A. No. Q. And how did you get up there on the second day? 4 O. There were multiple rates depending on what 4 5 work you were doing? 5 A. I said the second, maybe the third day we took the truck. So, one of us drove, and the other one drove 6 A. Yes. 6 7 Q. So when you referred to the \$1.20, what are you 7 the truck back. 8 O. And how did you come to get this truck? referring to? 8 9 A. The main course of action. Just the burying of 9 A. We asked him, and he gave it to us. 10 Q. And did you tell him at that point in time that the pipe. 10 you needed it for the purposes of driving back and forth 11 O. When you were working in New Castle, you were 11 burying the main trunk line through the neighborhood, 12 12 between Dover and Westchester? 13 A. No. That's just how the company was. All the correct? 13 A. Yes. 14 14 foremen had company trucks. 15 O. When you were working out of Westchester, you Q. In fact, did you know that Mark Lynch didn't 15 16 were burying lines from that main trunk directly to a 16 have a company truck? 17 house, a drop? 17 A. He did. Q. Were you present at the time that any of those 18 A. Yes. 18 O. And that's different work with different rates? 19 19 foremen were assigned a truck? 20 A. Same principle, different rates. 20 21 Q. At paragraph 27, it says, "The transfer 21 Q. Did you ever see a policy that said all foremen 22 resulted in a substantial reduction in salary." Do you 22 have a truck? 23 23 recall that allegation? A. No. 24 24 A. Yes. O. Did you review the Complaint in this action 37 35 Q. Upon what is that based? 1 before it was filed? 1 2 2 A. Deductions at the end of the day. A. Yes. 3 O. And what are deductions? 3 O. Did you sign a verification that it was A. Gas, food, room and board. 4 accurate? 4 5 Q. Well, you were traveling back and forth daily 5 A. I believe so. 6 between home, so you didn't have room and board, did you? 6 MR. HUGGETT: I would make a request 7 for a copy of that if it exists. I don't have any 7 A. Depending on what time we got off work. If we got off work at 9:00 at night, we would just get a hotel. such -- I have a verification from Mr. Coleman, 8 8 9 No point in driving home. 9 10 Q. Why would food costs increase because you were 10 Q. In the Complaint, paragraph 28, it says "The in Westchester as opposed to anywhere else? You have to 11 11 plaintiffs made \$1.20 per square foot, compared to \$2.80 12 eat all the time, right? 12 per foot at the New Castle plant." Do you recall that 13 13 allegation? A. We worked longer hours, so you ended up in the 14 field longer, so you got to spend more money on food. 14 A. Yeah. 15 Q. And if you're driving the company truck, who O. Okay. Upon what do you base the allegation 15

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24

21 Q. Distance from one point to another in a

linear?

16

17

18

19

20

22 straight line.

23 A. Okay. Yeah. 24

Q. And in fact, the rates that you were paid for

O. Rates are based on linear feet of installation?

A. Whatever linear means. What do you mean by

A. The company.

Q. In fact, in direct salary from the company, you made more working at Westchester than you did in New Castle?

A. In direct salary, yes.

pays for gas?

Q. And you and Mr. Coleman weren't the only employees transferred from New Castle to Westchester, were you?

that you were paid \$1.20 per square foot?

A. Should have been \$1.20 per foot.

Brian Coleman

		T	20
	30		32
1	-Q. But it wasn't right when you started working up	1	A. I mean it's the same type thing, but different
2	there?	2	a little bit, yeah. You could say.
3	A. I don't remember that. I really don't.	3	Q. Has different rates associated with payments?
4	Q. And what happened with regard to that?	4	A. A lot different. I think I was getting about
5	A. The truck got taken away from us.	5	1.20 a foot for doing that underground drops. That one
6	Q. How did that happen?	6	was like 3.65 a foot we were getting. I think. Don't
7	A. Well, allegedly, John Gates told him we didn't	7	quote me but the big pipe, I don't know exactly what
8	need a truck.	8	it was.
9	Q. And when you say allegedly, what do you mean?	9	Q. When you're doing drops, you don't have to
10	A. Well, I mean that's what Billy Grover said.	10	spend extra time setting vaults though, correct?
11	But you don't know what to believe. I didn't hear it	11	A. You still got to dig into the vault.
12	from his mouth, so I don't know if he said it or not.	12	Q. But when you're setting vaults you don't get
13	Q. You heard that from Mr. Grover?	13	paid for setting a vault per se. There's not a rate for
14	A. Correct.	14	that, is there?
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16	just off the record.	16	not getting paid to set vaults. 3.65 is a lot different
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18	BY MR. HUGGETT:	18	Q. So the 3.65 includes payment for setting the
19	Q. Did you know why you went from Angola up to	19	vault, right? That's part of that. And the 1.20 doesn't
20	Westchester?	20	require that. You have to dig into it, but you don't
21	A. Sure don't.	21	have to set it, which is a lot of work.
22	Q. No one ever told you anything?	22	A. No, you don't have to set it.
23	A. (Witness shakes head).	23	Q. Were you working more hours directly when you
24	Q. Did you understand that the Verizon contract	24	came up to Westchester?
2 -			
1			
	31		33
1	was being closed?	1	A. It varied. Could go back and forth I mean
1 2		1 2	
1	was being closed?		A. It varied. Could go back and forth I mean
2	was being closed? A. Nobody ever told me. I don't know.	2	A. It varied. Could go back and forth I mean any day with underground utilities, you can have a bad
2 3	was being closed? A. Nobody ever told me. I don't know. Q. But you did say it was the nature of the work	2 3	A. It varied. Could go back and forth I mean any day with underground utilities, you can have a bad day, something can go wrong.
2 3 4	was being closed? A. Nobody ever told me. I don't know. Q. But you did say it was the nature of the work that employees went and did the work	2 3 4	A. It varied. Could go back and forth I mean any day with underground utilities, you can have a bad day, something can go wrong. Q. Does the weather interfere with being able to
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1	34		36
1 .		-	
1	Q. Do you recall when that happened?	1	out of New Castle, it wasn't just one \$1.20 rate, was
2	A. The same week that we started working up there,	2	there?
3	probably the second, maybe third day.	3	A. No.
4	Q. And how did you get up there on the second day?	4	Q. There were multiple rates depending on what
5	A. I said the second, maybe the third day we took	5	work you were doing?
6	the truck. So, one of us drove, and the other one drove	6	A. Yes.
7	the truck back.	7	Q. So when you referred to the \$1.20, what are you
8	Q. And how did you come to get this truck?	8	referring to?
9	A. We asked him, and he gave it to us.	9	A. The main course of action. Just the burying of
10	Q. And did you tell him at that point in time that	10	the pipe.
11	you needed it for the purposes of driving back and forth	11	Q. When you were working in New Castle, you were
12	between Dover and Westchester?	12	burying the main trunk line through the neighborhood,
13	A. No. That's just how the company was. All the	13	correct?
14	foremen had company trucks.	14	A. Yes.
15	Q. In fact, did you know that Mark Lynch didn't	15	Q. When you were working out of Westchester, you
16.	have a company truck?	16	were burying lines from that main trunk directly to a
17	A. He did.	17	house, a drop?
18	Q. Were you present at the time that any of those	18	A. Yes.
19	foremen were assigned a truck?	19	Q. And that's different work with different rates?
20	A. No.	20	A. Same principle, different rates.
21	Q. Did you ever see a policy that said all foremen	21	Q. At paragraph 27, it says, "The transfer
22	have a truck?	22	resulted in a substantial reduction in salary." Do you
23	A. No.	23	recall that allegation?
24	Q. Did you review the Complaint in this action	24	A. Yes.
	35		37
1	before it was filed?	1	Q. Upon what is that based?
2	A. Yes.	2	A. Deductions at the end of the day.
3	Q. Did you sign a verification that it was	3	Q. And what are deductions?
4	accurate?	4	A. Gas, food, room and board.
5	A. I believe so.	5	
1	an Triconomi 1 11 1	1 -	Q. Well, you were traveling back and forth daily
6	MR. HUGGETT: I would make a request	6	between home, so you didn't have room and board, did you?
6 7	MR. HUGGETT: I would make a request for a copy of that if it exists. I don't have any	1	
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64 62 O. Now, you heard the question referenced by 1 A. All the time. 1 2 defense counsel that you were actually making more after MR. HUGGETT: Objection. 2 3 Q. And when do you think about that? you were transferred. -3 A. Whenever I think about what life would have 4 A. You make more on the books, but I mean at the 4 5 been like if he had never made that statement. end of the week, after you deduct everything you have to 5 Q. Do you know if Brad Dodson continued to work 6 spend to make the money, you don't make more, working two 6 7 hours away from home, than you do when you work 30 7 after you were laid off from CCG? 8 A. Yeah. Because the day I was laid off, that was minutes from home. Working for half the -- less than 8 the day they transferred him and another guy named Chris 9 half the pay, doing more work on a daily basis, just to 9 to an aerial construction team up in New York, I believe. 10 make that dollar. 1.0 11 Q. So, do you know if you were working more days A. O. Do you know, did Brad Dodson make any 11 statements concerning his relationship with, the fact 12 after your transfer? 12 13 A. Yeah. We worked four-day weeks in Angola and that he was related to David Dodson, during the 13 14 New Castle, and in Westchester, we worked up to six days, confrontation with Brian Coleman? 14 15 sometimes come in on the weekends and even work just to 15 A. Yeah. He did spout off a couple times that, you know -- just pretty much they were arguing. Nobody 16 make enough money. 16 17 Q. And who decided how many days a week you were knew where the situation was going to go at that time. 17 So he did make a couple of statements about his brother, 18 to work? How was that decided? 19 A. You were mandatory to work five days, but I 19 yeah. 20 20 mean if you didn't make it, they had no problem with you Q. What statements were those? A. I can't remember exactly the exact statements. 21 working more days, as much overtime as you want, because 21 22 the company made a lot more than we did, so they wouldn't 22 O. Can you recall in general what type of 23 have a problem with it. There's always an abundance of 23 statements they were? 24 work, so --A. When he was poking him in his chest, he was 65 63 1 Q. Do you know if anyone informed Lisa Clemens saying, "What do you think you're doing here?" He's like 2 that Brad Dodson, in fact, did not call you two dumb "My brother is the supervisor." Or something to that 3 3 niggers? nature. Just pretty much trying to make it like there 4 A. If anybody informed her that he didn't? was nothing we could do. He was going to win, if we 5 tried to do anything, pretty much. 5 O. Yes. 6 A. I don't know. I don't think so. Q. Does the Dodson name mean anything within the 7 Q. And when Robert Koch had told you about the CCG company? conversation, it was in the context of how much money 8 8 A. It means a lot, just like the Millers. The 9 they were making? 9 Dodsons are some of the -- I believe they were some of 10 the founders of the company. His dad, their dad works 10 A. Yeah. 11 Q. And Robert Koch informed you of this statement 11 there, the brother works there, cousins work there. And 12 that Brad Dodson made, was it a reference that you two 12 like I said, I met a cousin of the Dodsons in Ocean City 13 this year. It's a big family company, pretty much. 13 were the reason that they were not making as much money? 14 1.4 A. Exactly, yes. Q. After you were transferred from the New Castle 15 Q. And how do you know that? 15 site, do you know how much you were making per square 16 A. Because he tried to make it as though if he had 16 foot when you were transferred? 17 somebody else --17 A. We were making \$2.60 per foot in New Castle and 18 18 MR. HUGGETT: I'm going to object to Angola. In Westchester, we made \$1.20 per foot. Pretty the question. He wasn't present for any of that. 19 much the same -- same work. You bury the pipe in the 19 MR. POLIQUIN: That's fine. 20 20 ground, takes the exact same time to do it. Same labor 21 21 A. He was trying to make it seem as though if it involved. Shoot missiles under driveways, it's the same 22 wasn't for us, he would be making more money, and that we 22 thing as shooting missiles under driveways from main were the downfall of the crew. 23 23 line. You actually shoot the missile right next to the MR. POLIQUIN: I have no further main line lines. It's the same work. 24

McLean and Coleman v. Communications Construction Group, Jason McLean

36 34 out of New Castle, it wasn't just one \$1.20 rate, was 1 Q. Do you recall when that happened? 1 A. The same week that we started working up there, 2 2 3 A. No. probably the second, maybe third day. 3 Q. There were multiple rates depending on what Q. And how did you get up there on the second day? 4 4 A. I said the second, maybe the third day we took 5 work you were doing? 5 the truck. So, one of us drove, and the other one drove 6 A. Yes. 6 Q. So when you referred to the \$1.20, what are you 7 7 the truck back. Q. And how did you come to get this truck? 8 8 9 A. The main course of action. Just the burying of A. We asked him, and he gave it to us. 9 Q. And did you tell him at that point in time that 10 the pipe. 10 you needed it for the purposes of driving back and forth Q. When you were working in New Castle, you were 11 11 between Dover and Westchester? 1.2 burying the main trunk line through the neighborhood, 12 A. No. That's just how the company was. All the correct? 13 13 14 A. Yes. 14 foremen had company trucks. O. When you were working out of Westchester, you 15 Q. In fact, did you know that Mark Lynch didn't 15 were burying lines from that main trunk directly to a 16 16 have a company truck? 17 house, a drop? 17 A. He did. A. Yes. Q. Were you present at the time that any of those 18 18 O. And that's different work with different rates? 19 foremen were assigned a truck? 19 20 A. Same principle, different rates. 20 A. No. 21 Q. At paragraph 27, it says, "The transfer Q. Did you ever see a policy that said all foremen 21 22 resulted in a substantial reduction in salary." Do you 22 have a truck? 23 recall that allegation? 23 A. No. 24 A. Yes. 24 Q. Did you review the Complaint in this action 37 35 Q. Upon what is that based? 1 1 before it was filed? 2 A. Deductions at the end of the day. A. Yes. 2 Q. And what are deductions? 3 3 Q. Did you sign a verification that it was 4 A. Gas, food, room and board. 4 accurate? 5 Q. Well, you were traveling back and forth daily 5 A. I believe so. between home, so you didn't have room and board, did you? 6 MR. HUGGETT: I would make a request 6 7 A. Depending on what time we got off work. If we 7 for a copy of that if it exists. I don't have any got off work at 9:00 at night, we would just get a hotel. 8 8 such -- I have a verification from Mr. Coleman, 9 No point in driving home. 9 Q. Why would food costs increase because you were 10 10 O. In the Complaint, paragraph 28, it says "The 11 in Westchester as opposed to anywhere else? You have to plaintiffs made \$1.20 per square foot, compared to \$2.80 11 per foot at the New Castle plant." Do you recall that 12 eat all the time, right? 12 A. We worked longer hours, so you ended up in the 13 13 allegation? 14 field longer, so you got to spend more money on food. A. Yeah. 14 Q. And if you're driving the company truck, who 15 Q. Okay. Upon what do you base the allegation 15 pays for gas? that you were paid \$1.20 per square foot? 16 16 A. The company. 17 A. Should have been \$1.20 per foot. 17 Q. In fact, in direct salary from the company, you O. Rates are based on linear feet of installation? 18 18 19 made more working at Westchester than you did in New A. Whatever linear means. What do you mean by 19 Castle? 20 linear? 20 Q. Distance from one point to another in a 21 A. In direct salary, yes. 21 22 Q. And you and Mr. Coleman weren't the only 22 straight line. employees transferred from New Castle to Westchester, 23 23 A. Okay. Yeah. 24 24 Q. And in fact, the rates that you were paid for were you?

Wilcox and Fetzer, Ltd.

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-A. All the time.

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MR. HUGGETT: Objection.

- Q. And when do you think about that?
- A. Whenever I think about what life would have been like if he had never made that statement.
- Q. Do you know if Brad Dodson continued to work after you were laid off from CCG?
- A. Yeah. Because the day I was laid off, that was the day they transferred him and another guy named Chris to an aerial construction team up in New York, I believe.
- Q. Do you know, did Brad Dodson make any statements concerning his relationship with, the fact that he was related to David Dodson, during the confrontation with Brian Coleman?
- A. Yeah. He did spout off a couple times that,
 you know -- just pretty much they were arguing. Nobody
 knew where the situation was going to go at that time.
 So he did make a couple of statements about his brother,
- 19 yeah.
- Q. What statements were those?
- 21 A. I can't remember exactly the exact statements.
- 22 Q. Can you recall in general what type of
- 23 statements they were?
 - A. When he was poking him in his chest, he was

Q. Now, you heard the question referenced by defense counsel that you were actually making more after you were transferred.

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- A. You make more on the books, but I mean at the end of the week, after you deduct everything you have to spend to make the money, you don't make more, working two hours away from home, than you do when you work 30 minutes from home. Working for half the less than half the pay, doing more work on a daily basis, just to make that dollar.
 - Q. So, do you know if you were working more days after your transfer?
- A. Yeah. We worked four-day weeks in Angola and New Castle, and in Westchester, we worked up to six days, sometimes come in on the weekends and even work just to make enough money.
- Q. And who decided how many days a week you were to work? How was that decided?
- A. You were mandatory to work five days, but I mean if you didn't make it, they had no problem with you working more days, as much overtime as you want, because the company made a lot more than we did, so they wouldn't have a problem with it. There's always an abundance of work, so --

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- saving. "What do you think you're doing here?" He's like
- "My brother is the supervisor." Or something to that
- 3 nature. Just pretty much trying to make it like there
- 4 was nothing we could do. He was going to win, if we
- 5 tried to do anything, pretty much.
 - Q. Does the Dodson name mean anything within the CCG company?
 - A. It means a lot, just like the Millers. The Dodsons are some of the -- I believe they were some of the founders of the company. His dad, their dad works there, the brother works there, cousins work there. And like I said, I met a cousin of the Dodsons in Ocean City this year. It's a big family company, pretty much.
 - Q. After you were transferred from the New Castle site, do you know how much you were making per square foot when you were transferred?
 - A. We were making \$2.60 per foot in New Castle and Angola. In Westchester, we made \$1.20 per foot. Pretty much the same same work. You bury the pipe in the ground, takes the exact same time to do it. Same labor involved. Shoot missiles under driveways, it's the same
- thing as shooting missiles under driveways from main line. You actually shoot the missile right next to the
- 24 main line lines. It's the same work.

- Q. Do you know if anyone informed Lisa Clemens that Brad Dodson, in fact, did not call you two dumb niggers?
- A. If anybody informed her that he didn't?
- Q. Yes.
- A. I don't know. I don't think so.
- Q. And when Robert Koch had told you about the
 conversation, it was in the context of how much money
 they were making?
- 10 A. Yeah.
- Q. And Robert Koch informed you of this statement that Brad Dodson made, was it a reference that you two were the reason that they were not making as much money?
- 14 A. Exactly, yes.
 - Q. And how do you know that?
 - A. Because he tried to make it as though if he had somebody else --

MR. HUGGETT: I'm going to object to the question. He wasn't present for any of that.

MR. POLIQUIN: That's fine.

A. He was trying to make it seem as though if it wasn't for us, he would be making more money, and that we were the downfall of the crew.

MR. POLIQUIN: I have no further

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58 1 statement to the police, if, in fact, he denied calling Q. Did you ask anyone else? 2 2 you and Brian, calling you two dumb niggers? 3 3 A. I don't recall his statement, if he denied it Q. And did you ever get an explanation why you 4 were transferred from the New Castle site? 4 or -- I believe he probably did deny it. 5 5 A. Never an explanation, no. Q. Can I show you a copy of the police report to 6 Q. Did you ask for a written statement on why you 6 refresh your recollection? 7 7 were transferred from the New Castle site? A. Yeah. 8 8 MR. POLIQUIN: I am showing him a 9 9 Q. And did you ever get a written statement? police report that's connected to the -- listed as 10 10 an exhibit to the Complaint. A. No. A. "He did not admit or deny making the statement 11 11 Q. After Lisa Clemens conducted her investigation, 12 were you informed of the results of the investigation? 12 at this time." Yeah. 13 13 Q. So based on reading that police report, did 14 Q. And what were you informed? 14 Brad Dodson deny making the statement at all to the 15 15 police officer? A. I was informed that we apparently did not 16 16 MR. HUGGETT: Objection. Go ahead and follow company policy, by we should have -- I should have 17 contacted the supervisor. But I had no supervisor's 17 answer, but ---18 phone number to contact. The only person I had to 18 A. He didn't deny it or say that he did, so --19 contact was Brad, and that I was apparently out of area 19 O. Did anyone else get physical -- excuse me, did 20 by contacting my foreman, which is the same person I 20 you or Brian Coleman get physical with Brad Dodson on May 21 contact every day, all day, for anything. So --21 31, 2005? 22 Q. And was there any other supervisors on the site 22 A. No. 23 at that time? 23 Q. And this was even after Brad Dodson had started 24 A. No. poking Mr. Coleman in the chest? 59 61 1 Q. You have made a statement that all foremen have 1 A. Yes.

2 trucks that they used?

A. Uh-huh.

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4 Q. How do you know that?

5 A. Every foreman that I've ever met in CCG had an 6 F350 pickup truck, and drove it from the work site home, 7

or from the work site to the hotel, and then on weekends

8 they drove it home. Every single one I've met. Other 9 than myself.

10

Q. And you know that from firsthand experience?

11 A. Yeah.

> Q. Now, did you have a chance to review the police report that was connected with the incident that took place on May 31, 2005?

15 A. The only police report that I reviewed was the 16 one that the cop actually handed to us. I got to review

17 the second one today, briefly.

18 Q. And did it confirm, did any witnesses confirm 19 the fact that Brad Dodson made the statement calling you 20 two dumb niggers?

21 A. Yeah. In the police report that I originally 22 had, yeah. It had the statements from both of the guys, 23 that they both said in the police report what they heard.

Q. And do you remember if in Brad Dodson's

2 Q. Has the incident with Brad Dodson changed you 3 at all, in how you work?

A. Absolutely.

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Q. And how has it?

A. Well, for one, from the day I got laid off, started having problems at home, being able to provide 7

8 for the girl that I was going to end up marrying and my

9 daughter. We ended up breaking up due to the fact that I

10 didn't have enough money to provide for the both of them,

11 and I'm not having any insurance, so I ended up -- I have

12 a tonsilitis condition, where I was supposed to have my

13 tonsils out. I lost my insurance, two years went by

14 without having to get my tonsils out. Ended up getting 15

four or five throat infections every year. I actually

16 got one right now, I was in the hospital for it 17

vesterday.

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And the career that I have, I mean everybody knows everybody. Everybody that I work with now knows Brad Dodson. I work with three people that used to work at CCG. I mean it's -- you just can't escape it. I mean it's an everyday thing.

Q. Do you ever think about the day that Brad Dodson had called you and Brian Coleman two dumb niggers?

16 (Pages 58 to 61)

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	30	T	32
1	O. But it wasn't right when you started working up	1	A. I mean it's the same type thing, but different
2	there?	2	a little bit, yeah. You could say.
3	A. I don't remember that. I really don't.	3	Q. Has different rates associated with payments?
4	Q. And what happened with regard to that?	4	A. A lot different. I think I was getting about
5	A. The truck got taken away from us.	5	1.20 a foot for doing that underground drops. That one
6	O. How did that happen?	6	was like 3.65 a foot we were getting. I think. Don't
7	A. Well, allegedly, John Gates told him we didn't	7	quote me but the big pipe, I don't know exactly what
8	need a truck.	8	it was.
9	Q. And when you say allegedly, what do you mean?	9	Q. When you're doing drops, you don't have to
10	A. Well, I mean that's what Billy Grover said.	10	spend extra time setting vaults though, correct?
11	But you don't know what to believe. I didn't hear it	11	A. You still got to dig into the vault.
12	from his mouth, so I don't know if he said it or not.	12	Q. But when you're setting vaults you don't get
13	Q. You heard that from Mr. Grover?	13	paid for setting a vault per se. There's not a rate for
14	A. Correct.	14	that, is there?
15	MR. POLIQUIN: Brian, if I could	15	A. No. There's not. But the price makes up for
16	just off the record.	16	not getting paid to set vaults. 3.65 is a lot different
.17	(Brief discussion off the record)	17	than 1.20.
18	BY MR. HUGGETT:	18	Q. So the 3.65 includes payment for setting the
19	Q. Did you know why you went from Angola up to	19	vault, right? That's part of that. And the 1.20 doesn't
20	Westchester?	20	require that. You have to dig into it, but you don't
21	A. Sure don't.	21	have to set it, which is a lot of work.
22	Q. No one ever told you anything?	22	A. No, you don't have to set it.
23	A. (Witness shakes head).	23	Q. Were you working more hours directly when you
24	Q. Did you understand that the Verizon contract	2.4	came up to Westchester?
	31		33
1	was being closed?	1	A. It varied. Could go back and forth I mean
2	A. Nobody ever told me. I don't know.	2	any day with underground utilities, you can have a bad
3	Q. But you did say it was the nature of the work	3	day, something can go wrong.
4	that employees went and did the work	4	Q. Does the weather interfere with being able to
5	A. Traveled, yeah.	5	do the work?
6	Q wherever it was? What was the work that was	6	A. Unexpected. I mean Brad had us working in the
7	being done in Westchester?	7	rain. Didn't matter. The rain, to me, didn't have
8	A. When we got transferred?	8	nothing to do with it, no. Wintertime when the ground
9	Q. Yeah.	9	got frozen, that would be a different story.
10	A. Drop work. Underground drops. Instead of	10	Q. And it's correct, isn't it, that in fact, after
11	doing big pipe, you do little small drops. Got to run	11 .	you came up to Westchester, you were taking home more, on
12	from here to there, there to there. There to there. It	12	average in pay, per week, than you were in New Castle? A. I don't I don't remember, but if I did, I
13	was just crazy. Monotonous. Versus the main line, you	13	had to work a lot harder to get it.
14	go to a neighborhood and sit in that neighborhood and	14 15	Q. How is that?
15	just work, work, work, work.	16	A. Because I had to wake up two hours earlier to
16	Q. So the drops can be in various neighborhoods in	17	get to work on time, then, versus like I said, sitting in
17	a given day?	18	one development, one neighborhood, working up this street
18	A. Absolutely.Q. Is it easier work?	19	all day long, I had to run 20 miles this way, 20 miles
19 20	Q. Is it easier work? A. I'm not going to say it's easier. I mean it's	20	this way, 15 miles that way, ten miles that way, to knock
21	all back-busting work. I mean it's hard labor work.	21	out four or five jobs in a day to make any money at all.
22	That's all it is.	22	Then you still got to split that 1.20 with Ortiz or
23	Q. It's different than what you were doing down in	23	whoever your helper was. It's not like you are taking
ر م	-		
2.4	New Castle?	24	home a whole 1.20.

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1	30		32
1	Q. But it wasn't right when you started working up	1	A. I mean it's the same type thing, but different
2	there?	2	a little bit, yeah. You could say.
3	A. I don't remember that. I really don't.	3	Q. Has different rates associated with payments?
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5	A. The truck got taken away from us,	5	1.20 a foot for doing that underground drops. That one
6	Q. How did that happen?	6	was like 3.65 a foot we were getting. I think. Don't
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8	need a truck.	8	it was.
9	Q. And when you say allegedly, what do you mean?	9	Q. When you're doing drops, you don't have to
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19	Westchester?	20	require that. You have to dig into it, but you don't
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21	Q. No one ever told you anything?	22	A. No, you don't have to set it.
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23	Q. Did you understand that the Verizon contract	24	came up to Westchester?
24			
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3	Q. But you did say it was the nature of the work	3	day, something can go wrong.
1 - '		i	
4	that employees went and did the work	4	Q. Does the weather interfere with being able to
5		4 5	do the work?
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5	that employees went and did the work A. Traveled, yeah.	5	do the work?
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	34		36
1	Q. And that split is what's referred to as	1	A. Did I? Yeah.
2	percentages?	2	Q. Who did you speak to?
3	A. Absolutely.	3	A. We had we all had a meeting, they had a
4	Q. And to your knowledge, was there any work still	4	meeting with us.
5	being performed in Delaware?	5	Q. Who had a meeting?
6	A. I don't know. I mean I was just a worker. I	6	A. It was Lisa Clemens, Gates.
7	don't know.	7	Q. And do you recall Gates? John Gates?
8	Q. Where did you reside at that point in time?	8	A. Yeah. And I think it was separate. I don't
9	A. In Delaware. In Delaware.	9	remember. I think we all went in there separately. But
10	Q. All right. Why did you provide the police with	10	basically, there's a they gave us all a written
11	a Willingboro, New Jersey address?	11	warning.
12	A. When did I provide the police with a New Jersey	12	Q. You say "all," to whom are you referring to?
13	address?	13	A. Me, Jason McLean, I know, and Bradley Dodson,
14	Q. Well, actually, this one has, what we've marked	14	Frank and Bobby Koch all got written warnings.
15	as Exhibit 1 has a Puzzleton Road, Dunkinsville, PA	15	Q. Okay. Do you know whether they were all for
16	address. Is that your address?	16	the same thing?
17	A. No, it's not.	17	A. Pretty much, I believe so.
18	Q. Is that an address you've ever lived at?	18	(Coleman Exhibit 4 marked)
19	A. No.	19	BY MR. HUGGETT:
20	MR. POLIQUIN: I believe, just for	20	Q. I'll give you a document we've marked as
21	confusion's sake, I think that's Bradley Dodson	21	Exhibit 4 to your deposition, the employee warning
22	they're referring to as the defendant there, not	22	report. Is that the document to which you were
23	Mr. Coleman.	23	referring?
24	Q. Okay. Here is actually where I was looking.	24	A. Yes.
			
	35		37
1		1	
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Brian Coleman

	34	T	36
1	Q. And that split is what's referred to as	1	A. Did I? Yeah.
2	percentages?	2	Q. Who did you speak to?
3	A. Absolutely.	3	A. We had we all had a meeting, they had a
4	Q. And to your knowledge, was there any work still	4	meeting with us.
5	being performed in Delaware?	5	Q. Who had a meeting?
6	A. I don't know. I mean I was just a worker. I	6	A. It was Lisa Clemens, Gates.
7	don't know.	7	Q. And do you recall Gates? John Gates?
8	Q. Where did you reside at that point in time?	8	A. Yeah. And I think it was separate. I don't
9	A. In Delaware. In Delaware.	9	remember. I think we all went in there separately. But
10	Q. All right. Why did you provide the police with	10	basically, there's a they gave us all a written
11	a Willingboro, New Jersey address?	11	warning.
12	A. When did I provide the police with a New Jersey	12	Q. You say "all," to whom are you referring to?
13	address?	13	A. Me, Jason McLean, I know, and Bradley Dodson,
14	Q. Well, actually, this one has, what we've marked	14	Frank and Bobby Koch all got written warnings.
15	as Exhibit 1 has a Puzzleton Road, Dunkinsville, PA	15	Q. Okay. Do you know whether they were all for
16	address. Is that your address?	16	the same thing?
17	A. No, it's not.	17	A. Pretty much, I believe so.
18	Q. Is that an address you've ever lived at?	18	(Coleman Exhibit 4 marked)
19	A. No.	19	BY MR. HUGGETT:
20	MR. POLIQUIN: I believe, just for	20	Q. I'll give you a document we've marked as
21	confusion's sake, I think that's Bradley Dodson	21	Exhibit 4 to your deposition, the employee warning
i	they're referring to as the defendant there, not	22	report. Is that the document to which you were
22	Mr. Coleman.	23	referring?
24	Q. Okay. Here is actually where I was looking.	24	A. Yes.
24	Q. Okay. Here is actually where I was looking.		37
1	I, Brian T. Coleman of 20 Tarpon Court, Willingboro, New	1	Q. And is that your signature on the document?
2	Jersey.	2	A. Yes, it is.
3	A. Yes, I did. That's my mother and father's	3	Q. Okay. And there is a part there on that first
4	address. I was living with a woman and if that woman	4	page in the middle that says "I agree or I disagree."
5	puts me out, where am I going to get my mail? This is	5	There's nothing checked there, is there?
6.	important business, that's why I put that address.	6	A. Nope.
7	Q. So you did give them that address?	7	Q. You didn't write down that you had a
8	A. Yeah, I did.	8	disagreement with any of this?
9	Q. But you weren't living at that address at that	9	A. No. I mean I felt my job was threatened, the
10	point in I am?	10	reason why I didn't. I was just cooperating with them,
11	A. Staying there sometimes on the weekends, but	11	because because of the situation. That's why I didn't
12	no, I wasn't living there. Not permanently. We had a	12	check the boxes. I didn't agree with it, and I knew I
13	job site when I was doing cable up in New Jersey,	13	was going to get worse, because I knew
14	Trenton, New Jersey. I stayed right up there. John	14	Q. Did anyone threaten your job at that point in
15	Gates was the supervisor. So I stayed at my mother and	15	time?
16	father's house, where I could sleep. I mean if I don't	16 17	A. I mean you're making accusations, "I don't
17	have money to pay at a motel, why should I stay at a	17	know, when you come back from vacation, I don't know
18	motel? My mother and father's house was right there.	18 19	where you're going to go." That's like threatening my job. I been there for five years. How you going to tell
19	Q. What work did you do in Oaks, Pennsylvania?	20	me you're not going to know where I'm going to go or what
20	A. The underground drops, 1.20 a foot.	l	
21	Q. Same kind of work as in Westchester?	21 22	I'm going to do when you got job sites all over. Send me from one to another one where Brad Dodson was not
22	A. Pretty much.	23	supposed to be around me, but it's still the same job
23	Q. After the incident on May 31, did you ever	24	supposed to be around me, out it's still the same job site. You going to tell me you can't find a job site to
24	speak to anyone from human resources?	23	one. I ou going to ten me you can timit a jou site to

McLean and Coleman v. Communications Construction Group, LLC Brian Coleman

48 46 A. Yes. A. Lisa Clemens. 1 1 2 O. And you had said he had actually given you some 2 O. On the date of the incident? 3 instructions not to talk to the police or report it to 3 A. On the date of the incident. 4 O. You talked about a team concept. What did you human resources? 4 exactly mean by it, when you explained -- when you said 5 5 A. He didn't want me to call the police. He kept 6 trying to pull me and Brad aside, make us shake hands, team concept and working with a group of individuals at 6 7 7 CCG? and basically go back to work. 8 Q. Did he say anything about calling human A. Because, I mean everybody is there to make 8 money. We're used to making good money. That's what we 9 resources? 9 do, try to make good money. Everybody has a place and a 10 A. No. Jason did that on his own. 10 11 O. Did Mike Fender instruct you to call human role, a position to play. Me and Jason's role was at the 11 12 bottom of the totem pole. Bottom of the food chain. We 12 resources? 13 A. No. 13 had to dig holes. But we still made good money. So, if we didn't go dig those holes, Q. Do you know if he wanted you to call human 14 14 Bradley Dodson and Frank couldn't sit there and run that 15 resources? 15 drill, the rest of the machine so we could all make 16 A. It sure didn't seem like it, the way he was 16 acting. He kept saying, "We'll take care of this. We'll 17 17 money. There's a process. take care of this." O. How did it make you feel when someone told you 18 18 that Bradley Dodson had called you two dumb niggers? 19 Q. And what did you take it, when you said "We'll 19 A. I felt humiliated. I was pissed off, because I 20 take care of this"? 20 21 A. Like nothing was going to be done. 21 know that's not the case. And just for him to call me 22 that, I mean -- it was just -- it wasn't -- I don't know. Q. You also had a couple questions concerning 22 23 whether you felt, whether anyone had told you if your job I mean I'm sweating my butt off every day for the man, 23 was threatened after you reported this incident. You and for our team. And for him to say something like 24 24 47 49 1 stated someone said I don't know where you're going to go that, it wasn't right. If I wouldn't have had so much 1 after you come back from vacation. Who said that to you? time invested in the company, and if it had been a couple 2 2 3 A. That was John Gates. 3 years ago and I was younger and I didn't think, I 4 Q. How long had you worked for Communications probably would have had a real bad problem out there. 4 5 Construction Group? 5 O. Did you make --A. About four or five years. 6 6 A. But the reason I didn't do all that was because I was trying to keep my job. I tried to play everything 7 Q. And during that time, have you had employment 7 8 reviews? 8 by the book. Q. Did it make you feel any better that Bradley 9 9 A. Yeah. 10 Q. And for the most part, were those positive Dodson didn't say it directly to you, but said it to 10 11 reviews? 11 other employees when you weren't around? A. Absolutely. The only thing they said bad about A. No. I would rather have him say it directly to 12 12 13 me, and I'm not trying to say -- the only thing they said 13 my face. about me, period, was that my knowledge of other cable TV 14 Q. And why is that? 14 A. At least he is not a coward then. If he had 15 work was limited. But that was because they stuck me 15 pounding ground rods and that was it. They never tried 16 said it to my face, I would have said well, why do you 16 to train me to do anything else. So how am I going to feel like this. We could have corrected the problem 17 17 18 know anything else? They said my cable TV experience was before it got blown out of proportion. When you go say 18 limited, so I only good quarter every time I got a raise. something behind somebody's back, that's devious. You 19 19 20 Q. The majority of the reviews, were they 20 have to watch that person. Sneaky. 21 positive? Q. Now, who is Mike Fender? 21 22 A. Oh, yeah, yeah, yes, sir. 22 A. He was a supervisor. I don't know where he 23 Q. Did anyone else ever call you dumb, or refer to 23 came from or how they got him, but he was a supervisor. 24 you as dumb? 24 Q. And he was present on March 31, 2005?

McLean and Coleman v. Communications Construction Group, LLC Jason McLean

	6		8
1	Q. Did it file tax returns?	1	A. Construction, Roads.
2	A. Yes.	2	Q. How long were you with EPB?
3	Q. And how did you come to start McLean	3	A. I can't recall. Maybe six, seven months.
4	Enterprises?	4	Q. Where did you work prior to that?
5	A. With my own knowledge of the job, and a little	5	A. Carmike Cinemas.
6	help from the parents with a little start-up money, and	6	Q. Is that a movie theater?
7	help of another friend who had already started the exact	7	A. Yeah.
8	same business.	8	Q. How long did you work there?
9	Q. Okay. Who started the same kind of a business?	9	A. About six years.
10	A. A buddy of mine named Josh.	10	Q. Is that while you were in school?
11	Q. Did McLean Enterprises have any employees,	11	A. Yes.
12	besides yourself?	12	Q. Were you still in school at the time that you
13	A. No.	13	worked for EPB?
14	Q. And why did you make the decision to go from	14	A. No.
15	operating your own business to working for CableNet	15	Q. What were you doing when you were first hired
16	Services?	16	by CCG?
17	A. Money.	17	A. Laborer, digging holes.
18	Q. And when you say money, what do you mean by	18	Q. And how long did you work as a laborer?
19	that?	19	A. Maybe four months.
20	A. Increase of pay, easier work.	20	Q. What did you do after you worked as a laborer
21	Q. How much were you making when you worked for	21	for CCG?
22	yourself at McLean Enterprises?	22	A. Operator.
23	A. Anywhere from 500 to \$1500 per week.	23	Q. And how long were you an operator for CCG?
24	Q. And presently what are you making?	24	A. Maybe two, three months.
	7		9
1	A. Anywhere from about 700 to \$2,000 a week.	1	Q. Did you hold any position after you were an
2	Q. Prior to McLean Enterprises, where did you	2	operator?
3	work?	3	A. Foreman position.
4	A. CCG.	4	Q. And how long did you hold that position?
5	Q. And what was your position with CCG at the time	5	A. The remainder of the time.
6	you left there?	6	Q. That would be about five months?
7	A. Foreman.	7	A. Sure, yeah.
8	Q. And do you recall how much you made when you	8	Q. Do you recall specifically when you were
9	were working at CCG as a foreman?	9	promoted to foreman?
10	A. Not the exact number. Guess, anywhere from 400	10	A. Not the exact date, no.
11	to \$1,000 a week.	11	Q. Do you recall if that was after you made the
12	Q. So you were actually making more money when you	12	complaint of discrimination that's at issue in this case?
13	started working for yourself?	13	A. Yes.
14	A. Yeah.	14	Q. Is it correct that the issues that you're
15	Q. When did you start working for CCG?	15	bringing in this case begin on May 31 of 2005, when Brad
16	A. December, I believe it was, 2004, was it?	16	Koch told you about a comment supposedly made by Brad
17	Q. If I told you it was January 10th of 2005,	17	Dodson or I'm sorry. Robert Koch told you about a
18	would you have any reason to say that was incorrect?	18	comment supposedly made by a Brad Dodson?
19	A. No. About the same time.	19	A. Can you repeat the whole question one more
20	Q. Why did you start working for CCG?	20	time?
1	A. I was looking for better employment.	21	(Question read)
21		1	
21	Q. Where had you been prior to CCG?	22	A. Yes.
1	= '	22 23	A. Yes.Q. And that comment was allegedly a racial

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	1 (2) (8) (10) (4)	,	· · · · · · · · · · · · · · · · · · ·
	46		48
1	Q. Did you review the answers to the	1	talked to you.
	Interrogatories that were given to you?	2	A. Uh-huh.
3	A. Yes.	3	Q. And you both then went over to where Frank and
4	O. The first Interrogatory asks for the	4	Brad were working.
	identification of anyone with knowledge, and the answer	5	A. Uh-huh.
	to that says Joseph Tatsch informed plaintiffs that Brad	6	Q. Where was Mr. Tatsch?
	Dodson told the entire crew of approximately six men.	7	A. Working somewhere in the same area.
	You've identified Mr. Tatsch, Mr. Miller, Mr. Koch, and	8	Q. But he wasn't there at that point in time?
4 1 4 4 4 4	an unnamed person as the four people in that crew.	9	A. What point in time are you referring to? When
10	A. Uh-huh.	10	we went over there?
11	Q. Are there two other members of that crew?	111	Q. When you spoke with Mr. Koch.
12	A. There might have been. The crews are always	12	A. No. He was not right directly with us, no.
34 3 A Color 200	switching up. As you can see how many crews I jumped	13	Q. And he wasn't directly with you when you spoke
	from. So, those are the main characters of that crew	14	to Brad Dodson?
A CONTRACTOR OF THE PARTY OF TH	that stood firm, so there's only people getting thrown in	15	A. No.
	day to day, thrown out day to day. Possibly could have	16	Q. And it's correct that you haven't seen any
1000	been six. Definitely two.	17	doctor or psychiatrist as a result of any of the events
17	O. Can you provide any other names	18	we've discussed today?
	A. No.	19	A. No. Can't afford it.
19	Q: - related to these six? Did you sign a	20	Q. Why do you say that?
20	verification of these Interrogatory answers?	21	A. If you get laid off, you don't get insurance.
21	A. Idon't remember.	22	Q. But you said that you went into business for
23	Q. The last sentence of that Interrogatory answer	23	yourself, and indeed, made more money, correct?
* 数据的 2000 数据	says, "Any CCG employee working in Ocean City in February	24	A. Yeah. Cash money, but after you do your
27	1-00 T		
	47		49
1	of 2007." To what does that refer?	1	taxes and everything, you don't end up making that much
2	A. I think that's referring to when I had a run-in	2	money.
3 ; ;	with Brad Dodson's cousin, who still works for CCG, who	3	Q. Do you get benefits with your present employer?
4 3	pretty much knew the entire situation. So, after we	4	A. Yes.
5		1 _	
6	introduced each other, we just parted.	5	Q. Have you given any written statements about the
1 × 7 6 6	Q. And that was after you no longer worked for	5 6	Q. Have you given any written statements about the events in this matter since May 31 of 2005?
	400 NASC 1011 TO SEE TO SEE THE SEE TH	l	· · · · · · · · · · · · · · · · · · ·
	Q. And that was after you no longer worked for	6	events in this matter since May 31 of 2005?
7.	Q. And that was after you no longer worked for CCG?	6 7	events in this matter since May 31 of 2005? A. To whom?
7 8	 Q. And that was after you no longer worked for CCG? A. Yes. Q. And what's this cousin's name? A. I don't know. 	6 7 8	events in this matter since May 31 of 2005? A. To whom? Q. To anyone.
7 8 9	Q. And that was after you no longer worked for CCG?A. Yes.Q. And what's this cousin's name?	6 7 8 9	events in this matter since May 31 of 2005? A. To whom? Q. To anyone. A. Written statements? Other than to my lawyer,
7 8 9 10 14	 Q. And that was after you no longer worked for CCG? A. Yes. Q. And what's this cousin's name? A. I don't know. 	6 7 8 9	events in this matter since May 31 of 2005? A. To whom? Q. To anyone. A. Written statements? Other than to my lawyer, no.
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44 46 48 1 Q. Did you review the answers to the talked to you. 2 Interrogatories that were given to you? 2 A. Uh-huh. 3 A. Yes. 3 Q. And you both then went over to where Frank and 4 O. The first Interrogatory asks for the 4 Brad were working. 5 identification of anyone with knowledge, and the answer 5 A. Uh-huh. ervisor 6 to that says Joseph Tatsch informed plaintiffs that Brad Q. Where was Mr. Tatsch? 7 Dodson told the entire crew of approximately six men. 7 A. Working somewhere in the same area. relevant to You've identified Mr. Tatsch, Mr. Miller, Mr. Koch, and 8 8 Q. But he wasn't there at that point in time? 9 an unnamed person as the four people in that crew. 9 A. What point in time are you referring to? When 10 A. Uh-huh. 10 we went over there? 11 Q. Are there two other members of that crew? 11 Q. When you spoke with Mr. Koch. or for CCG. 12 A. There might have been. The crews are always 12 A. No. He was not right directly with us, no. nts? 13 switching up. As you can see how many crews I jumped 13 Q. And he wasn't directly with you when you spoke 14 from. So, those are the main characters of that crew 14 to Brad Dodson? its? 15 that stood firm, so there's only people getting thrown in 15 A. No. r truck 16 day to day, thrown out day to day. Possibly could have 16 Q. And it's correct that you haven't seen any ll, John said 17 been six. Definitely two. 17 doctor or psychiatrist as a result of any of the events 18 Q. Can you provide any other names --18 we've discussed today? bout that? 19 19 A. No. Can't afford it. e. Never 20 Q. -- related to these six? Did you sign a 20 Q. Why do you say that? 21 verification of these Interrogatory answers? 21 A. If you get laid off, you don't get insurance. eman? 22 A. I don't remember. 22 Q. But you said that you went into business for 23 Q. The last sentence of that Interrogatory answer 23 yourself, and indeed, made more money, correct? 24 says, "Any CCG employee working in Ocean City in February $2\dot{4}$ A. Yeah. Cash money, but -- after you do your 45 49 1 of 2007." To what does that refer? 1 taxes and everything, you don't end up making that much ving the 2 A. I think that's referring to when I had a run-in 2 3. with Brad Dodson's cousin, who still works for CCG, who 3 Q. Do you get benefits with your present employer? 4 pretty much knew the entire situation. So, after we A. Yes. you regarding :5 introduced each other, we just parted. 5 Q. Have you given any written statements about the 6 Q. And that was after you no longer worked for 6 events in this matter since May 31 of 2005? lrive the truck 7 CCG? 7 A. To whom? 8 A. Yes. 8 Q. To anyone. riven? .9 Q. And what's this cousin's name? 9 A. Written statements? Other than to my lawyer, **110**. ∘ A. I don't know. 10 11 Q. And upon what do you base the statement that he 11 Q. Did you give a written statement to your low Robert 12 knew the entire situation? 12 lawyer? 13 A. Because he knew who I was. He knew who Brian 13 MR. POLIQUIN: Objection. You don't ures that 140 was, he knew the situation. He said -- in our short 14 have to answer the question. It's attorney/client 15 conversation, he said, "I heard about that." 15 of privilege. 1.6 Q. How did that come up? 16 MR. HUGGETT: Well, I don't think the also listed 17 A. We were talking about CCG. 17 existence of the statement is subject to the 18 Q. He didn't elaborate more than "I heard about 18 attorney/client privilege. The content of the 19 * that"? 19 statement would be. fact, one and 20 A. Neither of us did. 20 MR. POLIQUIN: You can answer the 21 Q: Was Joseph Tatsch present on May 31? 21 question, if you can answer it, I guess. 22 A. Yes. 22 BY MR. HUGGETT: 23 Q. When we went through it before, you identified 23 Q. Did you ever give your lawyer a written

that Mr. Koch came up riding on a piece of equipment and

24

statement?

McLean and Coleman v. Communications Construction Group, LLC Brian Coleman

			
	50		5:
1	A. No.	1	called human resources after the confrontation between
2	Q. Prior to this incident, did Bradley Dodson ever	2	you and Mr. Dodson, correct?
3	refer to you or Jason McLean by a certain by any other	3	A. Correct.
4	names?	4	Q. Did you ever complain to anyone that Brad
5	A. Yeah. He used to call us yahoos.	5	Dodson referred to you as a yahoo?
6	Q. And did he call anyone else yayhoos, or yahoos?	6	A. I didn't pay it no mind, until after that other
7	A. I never heard him say that to anyone else.	7	comment was said. But I heard him say that directly to
8	Q. And in what context did he tell you yayhoos or	8	me.
9	yahoos?	9	MR. HUGGETT: That's all.
10	A. "You yayhoos, come on. You can't get that	10	MR. POLIQUIN: I have nothing else.
11	right." I never heard the word or expression before. I	11	you can either waive signature or you can review it
12	didn't know what it meant.	12	before you sign it. What would you want to do?
		13	THE WITNESS: I want to review it.
1.3	Q. Who else was on your team at that time?A. Bradley and Frank.	14	(Deposition concluded at 2:22 p.m.)
14	Q. Did he ever refer to Frank as a yayhoo?	15	(- 1)
15	A. Huh-uh.	16	
16	Q. You had worked for this company for four or	17	
17		18	
18	five years?	19	
19	A. Yes, sir.	20	
20	Q. And were you ever laid off during that period	21	
21	of time?	22	
22	A. No, sir. Not that I remember.	23	
23	Q. And do you know what discipline Bradley Dodson	24	
24	received has a result of the Lisa Clemens investigation?	2 3	
	51		
1	A. None. A warning like we did. Which I don't	1	INDEX
1 2	A. None. A warning like we did. Which I don't see how	2	INDEX DEPONENT: BRIAN COLEMAN PAGE
	A. None. A warning like we did. Which I don't see how Q. And do you know if Bradley Dodson continued to	1	INDEX DEPONENT: BRIAN COLEMAN PAGE Examination by Mr. Huggett 2
2	A. None. A warning like we did. Which I don't see how	2 3	INDEX DEPONENT: BRIAN COLEMAN PAGE Examination by Mr. Huggett 2 Examination by Mr. Poliquin 42
2 3	 A. None. A warning like we did. Which I don't see how Q. And do you know if Bradley Dodson continued to work after you were laid off? A. Yes, he did. 	2 3	INDEX DEPONENT: BRIAN COLEMAN PAGE Examination by Mr. Huggett 2 Examination by Mr. Poliquin 42 Examination by Mr. Huggett 51
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IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF DELAWARE

JASON MCLEAN and)	
BRIAN COLEMAN,)	
)	
Plaintiffs,)	
)	
v.)	Civ. No.: 06-617-SLR
)	
COMMUNICATIONS)	JURY TRIAL DEMANDED
CONSTRUCTION GROUP, LLC.,)	
)	
Defendant.)	

CERTIFICATE OF SERVICE

I certify that on this 17th day of December 2007, I served electronically the attached Plaintiffs' Answering Memorandum in Support of Denying Defendant's Motion for Summary Judgment on the following parties:

Michael B. Kelly, Esquire Daniel M. Silver, Esquire McCarter & English, LLP Renaissance Centre 405 N. King Street, 8th Floor Wilmington, DE 19801

Thomas Benjamin Huggett, Esquire Courtney A. Wirth, Esquire Morgan, Lewis & Bockius, LLP 1701 Market Street Philadelphia, PA 19103

YOUNG, MALMBERG & HOWARD, P.A.

/s/ Ronald G. Poliquin
Ronald G. Poliquin, Esquire
I.D. No. 4447
30 The Green
Dover, DE 19901
(302) 672-5600
Attorney for Plaintiffs